MAR 1 8 2022
11:10 O'CLOCK A M
MELISSA HARRELL
DEPUTY CLERK

Exhibit A

IN THE RUTHERFORD COUNTY COURT OF GENERAL SESSIONS

NISSAR MOHAMMADI
PLAINTIFF
Vs

Konica Moore
Defendant

Case No. 322749
NOTICE OF MOTION TO VACATE A VOID JUDGMENT UNDER RULE 60.02 OF THE TENNESSEE RULES OF CIVIL PROCEDURE.

Court Date - 3/25/2022 @ 9:00 AM

STATEMENT OF CASE

There was no contract signed, executed or authenticated between Konica Moore as the de facto Borrower and Primary Mortgage Residential Inc. as the de facto Lender on June 16, 2016, under The Tennessee Statute of Frauds, Tenn. Code Ann. §29-2-101(a)(4), can potentially invalidate any real estate contract that is not adequately memorialized and signed by the party against whom enforcement is sought.

The Rutherford County Court of General Sessions lacked subject matter and in persona jurisdiction over the UNLAWFUL DETAINER, CIVIL JUDGMENT ENTERED ON MARCH 02, 2022 and is subject to the Tennessee Law of Voids. Tennessee Rule of Civil Procedures; RULE 60.02: MISTAKES – INADVERTENCE – EXCUSABLE NEGLECT – FRAUD, ETC.

Before the Rutherford County Court of General Sessions (Judge) can proceed juridically, jurisdiction must be complete – consisting of two opposing parties (not their Attorneys: although Attorneys can enter an appearance on behalf of a party, only the parties can testify, and until the Plaintiff testifies, the Court has no basis upon which to rule juridically). The two halves of subject matter jurisdiction equate to the statutory or common law authority that the action is brought under (the theory of indemnity) and the sworn testimony of a competent fact witness concerning the injury suffered (= the cause of action). If a jurisdictional failing appears on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred. So a question that naturally occurs is:
ALL TRANSACTIONS are SINCE THE ULTRA VIRES TRANSACTION ON JUNE 16th 2016 ARE NULL AND VOID. Does it not mean that all the transactions following the ultra vires action have been null and void? And if so, does that not mean that the MONEY generated off the back of funds that are owned by others are all not merely illegally procured, but also that the transactions themselves are null and void? And to complicate matters even further, the insurance companies' contracts contain clauses which state that policies are in effect ONLY so long as corporate banking charters are in effect and/or the corporation is in good standing.
The basis for this ruling was as follows. The borrower Konica Moore signs loan papers when the loan was made. A representative of the bank signs as well, but the ONLY capacity in which the bank's representative signs for Primary Mortgage

Residential Inc. is to certify that the borrower's signature is valid and correct. Put another way, the representative of **Primary Mortgage Residential Inc.** the bank does NOT append his signature in a mode or manner that creates a contract between the borrower Konica Moore and the bank. The reason that the bank's representative does not sign in order to create a contract is that the bank is aware that it is not giving the borrower ANYTHING AT ALL. When the borrower Konica Moore signed the documentation, what she is doing is creating a new negotiable piece of paper which, provided the bank or another party accepts it as such, can be converted into a LOAN. But it is a loan to the bank, not to the borrower. The bank's books will show the transaction as a credit, as banks are privileged institutions which enjoy the right to create money by monetizing promissory notes. The bank then places the amount that THE BORROWER loaned to them via the loan document into the borrower's account (deposit account), or else issues a certified check or some other payment method from the transaction book entry account. That process creates a debit on the bank's books. FIDDLING OF BANKS' BOOKS DOES NOT CREATE A CONTRACT In other words, all of a sudden, the bank's books are balanced, since the bank possesses a credit and a debit that suddenly match. But that process does not create a contract, which is what the court requires to be filed, in order to support any request for foreclosure PROVIDED A CONTRACT IS REQUESTED BY Konica-Renee: the Family of MOORE THE PERSON BEING FORECLOSED UPON, WHEN THE FORECLOSURE IS BEING CHALLENGED IN COURT. The crucial point here is that when the person being foreclosed upon requests the contract when challenging the foreclosure in court, he or she will be able thereby to demonstrate to the court that the bank cannot provide any such document. In the case cited in Appendix A, Deutsche Bank could not provide the contract because it did not possess a contract (see above). Accordingly, the court properly dismissed the foreclosure process. So the message to all who are vexed by this fraudulent finance offensive is that no loan can be foreclosed upon without a contract to back it up: and no contract exists in these cases. However it is essential for the foreclosure to be challenged at the hearing and that the contract be requested. This is usually done in America by means of a motion lodged prior to the date of the hearing. COURTS WILL 'DO THE RIGHT THING' IF THEY HAVE NO CHOICE The Court will (perhaps surprisingly to some) usually do the right thing if the right documents are placed before it by means of the proper procedure, as it has no choice in the matter. On the other hand, the Court does not have to answer a question that it is not asked to adjudicate upon or to take into consideration.. This means that even if the Judge may be aware that no contract exists to back up the foreclosure, UNLESS THE REQUEST FOR THE CONTRACT IS MADE, the foreclosure will be granted. Therefore those concerned must always ensure that a motion challenging the foreclosure and requesting the contract MUST be lodged prior to the hearing. In the report cited in the Appendix, the author implies, but does not actually state, that the reason the bank did not possess the contract was that the contract had been collectivized as the bank had been a purchaser of some of the packaged subprime derivatives. It can now be seen that these so called mortgage - backed, collectivized, synthetic derivatives that have been sold around the world which are based on loans, have nothing to back them up and are therefore worthless. [SEE EXHIBIT A THE 'SUBPRIME' 'SLIDE' = DELIBERATE OBFUSCATION OF FRAUD The 'subprime crisis' 'slide' is thus a verbal obfuscation designed by semantics experts aligned with US criminal intelligence cadres in order to obfuscate the true enormity of what has been going on for years behind the scenes – namely, that the banks have been ripping off Fannie Mae, Freddie Mac, the Federal Home Loan

Bank System. and other Government Sponsored Enterprises and borrowers alike, and have been enriching themselves illegally at the expense of both. (At the same time, the GSEs have been corruptly collaborating in this fraudulent activity, recycling what we suspect to be illegally procured cash into the banks, thus plugging huge gaps created by the ongoing illegal transfer of funds offshore and off balance sheet: see below). The value of such fraudulent financial transactions runs into multiple trillions of dollars. If the transactions were now to be properly marked on the banks' books, every leading US bank and securities house, and thousands of US savings banks, would collapse in bankruptcy. THE GSEs ARE OBLIGATED TO SUE THE BANKS TO RECOVER THEIR MONEY Moreover the General Managements of Fannie Mae and other affected GSEs are grossly negligent on two glaringly obvious counts, to begin with: first, they did not exercise proper due diligence when financing the banks' transactions; and secondly, they have inexplicably failed, given their knowledge of this corruption, to reclaim the funds that were illegally extracted from them by the banks, back onto their books, by every means available to them – which means that these GSEs are themselves coconspirators with the banks in this fraudulent finance, as well as being negligent in this respect, as well. Examination of the US Office of Management and Budget's 'Analytical Perspectives' document for Fiscal Year 2007 reveals (on pages 12291231) gigantic white spaces in the accounts of the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, and the US Federal Home Loan Bank System. Specifically, crucial basic data for direct loan obligations outstanding, are blank for the years 2005, 2007, and 2007 (estimated). The reason these tables (1) are blank is that these GSEs have chosen not to reveal that they have been ripped off by the banks, let alone the proportions of the ripoffs. An obfuscatory and deceitful rubric in six point type states that 'Consistent with Governmentwide practice for GSEs, information for 2006 and 2007 was not required to be collected'. As noted, data for 2005 is missing as well. The Editor of this service has studied the US Federal Budget intensively at times since the 1970s, and this 'practice' was, of course, never at all in evidence before the corrupt 'need' to disguise the magnitude of the frauds became acute.

Notice is hereby given that on March 25th 2022 or as soon thereafter as this Motion may be heard the de facto Defendant Konica Moore will move this Court of record for an order vacating the void judgment entered on March 02, 2022, the grounds for this Motion are;

1. Primary Mortgage Residential Inc. was not THE LENDER OF RECORD Or the Owner OF THE ACCOUNT FROM WHICH FUNDS WERE TRANSFERRED AT CLOSING UNDER FBAR OF FINCEN or the real party of interest under Tennessee Rules of Civil Procedure Rules 17.01, 17.02.

2. That this is evidenced on the public and administrative record of the U.S. DEPARTMENT OF TREASURY under FINCEN do to failure of Primary Mortgage Residential Inc. to file FINCEN FORM 114a ELECTRONICALLY to IDENTIFY themselves as the owner of the account From which Funds Were transferred at closing on June 16, 2016 for loan # 300172919 in violation of 31 CFR § 1010.420 Records to be

made and retained by persons having financial interests in foreign financial accounts.

3. **This COURTS ENTRY OF JUDGEMENT ENTERED ON MARCH 02, 2022 IS VIOLATING THE PROVISIONS OF NESARA/GESARA AND FOREGIVENESS OF ALL MORTGAGE DEBTS, WHICH TAKES EFFECT ON MARCH 15th 2022 and UNDER Leviticus 25:52 verses 52-55.**

4. **There is Evidence on the Court and Administrative Record that The STATE OF TENNESSEE, Rutherford County Court of General Sessions (Judge), The Plaintiff and Primary Mortgage Residential Inc. are actively pursuing and participating in the TENNESSEE SLAYER LAW AND RULE UNDER Title 31 - Descent and Distribution**

Like most states, Tennessee has a slayer statute that prevents a person who intentionally caused the death of a victim from inheriting personal or real property from the victim's estate. Codi victim from inheriting personal or real property from the victim's estate. filed at Tenn. Code Ann. § 31-1-106, the statute also prevents the killer from recovering life insurance proceeds from the victim, even if the killer was a named beneficiary under the policy. The statute is based on the principle that "a wrongdoer will not be allowed to benefit from his crime." Under Tennessee case law, a criminal conviction of first-degree murder will allow a third-party to use the slayer statute in civil court to prevent the killer from receiving property or money from the victim. However, even in the absence of a criminal conviction, a person will not be able to recover from the victim if it is shown by a "preponderance of evidence" that he or she caused the victim's death. The preponderance of evidence standard is the evidentiary standard used in civil court, and it is easier to meet than the "beyond a reasonable doubt" evidentiary standard used in criminal court. The differences between the two standards are important. A party challenging the killer's right to a recovery of life insurance proceeds can successfully invoke the slayer statute in civil court, even if the killer was found not guilty of murder in criminal court. The slayer statute applies not only to someone who kills, but also, to someone who conspires to kill, or hires someone else to kill. It does not apply to acts of self-defense. For example, if a battered wife kills her husband in self-defense, the slayer statute will not prevent her from recovering proceeds from his life insurance policy. The slayer statute also does not apply to accidental killings, even if the person who caused the death is at fault. The Supreme Court of Tennessee dealt with this issue in Moore v. State Farm Life Ins. Co (1994). In that case, the victim was killed after her husband lost control of the vehicle. The husband was intoxicated at the time and pled guilty to vehicular homicide. The guardian of the victim's minor children sued the life insurance company and the victim's husband seeking to recover proceeds from the victim's life insurance policy which had been paid to the husband as the primary beneficiary under policy. The lower court held that the husband forfeited his right to the insurance proceeds under the slayer statute. The Court of Appeals later affirmed.

2020 Tennessee Code Title 68 - Health, Safety and Environmental

Protection
Chapter 3 - Vital Records Act of 1977Part 3 - Births
§ 68-3-301. Registration Generally — Attestation to Accuracy of Data

Universal Citation: TN Code § 68-3-301 (2020)

a. **A certificate of birth for each live birth that occurs in this state shall be filed with the office of vital records, or as otherwise directed by the state registrar, within ten (10) days after the birth and shall be registered if it has been completed and filed in accordance with §§ 68-3-301 — 68-3-306.**
b. **Either parent of the child or any other knowledgeable informant shall attest to the accuracy of the personal data provided in sufficient time to permit the filing of a certificate within the ten (10) days prescribed by §§ 68-3-301 — 68-3-306.**

5. Konica-Renee of the Family of Moore is pleading a RESULTING AND CONSTRUCTIVE TRUST IN EQUITY DUE TO THE CONSTRUCTIVE AND ACTUAL FRAUD COMMITTED BY THE **STATE OF TENNESSEE, Rutherford County Court of General Sessions and (Judge)TOBY GILLIS, The PLAINTIFF NISSAR MOHAMMADI and Primary Mortgage Residential Inc.,** WHICH IS PRIMA FACIE ON THE ADMINISTRATIVE AND RUTHERFORD COUNTY COURT OF GENERAL SESSIONS RECORDS, ADMINISTRATIVE AND JUDICIAL and merging legal and equitable title and giving Konica-Renee Moore an Equitable Lien for Enforceability.
6. Konica-Renee of the Family of Moore is the Grantor, Settlor, Trustor, Owner, Lender and Beneficiary OF A CESTUI QUE VIE TRUST UNDER 26 USC §§ 671-679 of the Foreign Deed of Trust and the Security, referred to in the **Rutherford County Court of General Sessions (Judge) as a NOTE merging legal and equitable Title and terminating the DEED OF TRUST AS A LIEN OBLIGATION.**

When a trust is created it is done for the benefit of a specific individual who is identified in the trust document. In a trust, the cestui que trust is the person who has an equitable interest in the trust. The legal title of the trust, however, is given to the trustee. Cestui qui use, or he who uses, is the person for whose benefit the trust is made. During the medieval period, cestui que use arrangements became so common that they were often assumed to be present even when they had not been arranged.

7. Konica-Renee of the Family of Moore is the Grantor, Settlor, Trustor, Owner, Lender and Beneficiary UNDER 26 USC §§ 671-679 and is creating and invoking an ORAL TRUST UNDER THE UNIFORM TRUST CODE SECTION 407. EVIDENCE OF ORAL TRUST AND IS APPOINTING; THE Rutherford County Court of General Sessions AND THE HONORABLE TOBEY GILLEY(Judge) AND Primary Mortgage Residential Inc., AS TRUSTEES Except as required by a statute other than this [Code],

" a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear and convincing evidence."

2020 Tennessee Code Title 35 - Fiduciaries and Trust Estates Chapter 15 - Tennessee Uniform Trust Code Part 4 - Creation, Validity, Modification, and Termination of Trust;

- **§ 35-15-401. Methods of Creating Trust**
- **§ 35-15-402. Requirements for Creation**
- **§ 35-15-403. Trusts Created in Other Jurisdictions**
- **§ 35-15-404. Trust Purposes**
- **§ 35-15-405. Charitable Purposes — Enforcement**
- **§ 35-15-406. Creation of Trust Induced by Fraud, Duress, or Undue Influence**
- **§ 35-15-407. Evidence of Oral Trust**
- **§ 35-15-408. Trust for Care of Animal**
- **§ 35-15-409. Noncharitable Trust Without Ascertainable Beneficiary**
- **§ 35-15-410. Modification or Termination of Trust — Proceedings for Approval or Disapproval**
- **§ 35-15-411. Modification or Termination of Noncharitable Irrevocable Trust by Consent**
- **§ 35-15-412. Modification or Termination Because of Unanticipated Circumstances or Inability to Administer Trust Effectively**
- **§ 35-15-413. Cy Pres**
- **§ 35-15-414. Modification or Termination of Uneconomic Trust**
- **§ 35-15-415. Reformation to Correct Mistakes**
- **§ 35-15-416. Modification to Achieve Settlor's Tax Objectives**
- **§ 35-15-417. Combination and Division of Trusts**

- ## § 35-15-407. Evidence of Oral Trust

- **Universal Citation: TN Code § 35-15-407 (2020)**

- **Except as required by a statute other than this chapter, a trust need not be evidenced by a trust instrument, but the creation of an oral trust and its terms may be established only by clear and convincing evidence.**

Revocable Trusts: Tennessee

by Michael S. Goode, Lewis, Thomason, King, Krieg & Waldrop, P.C., with Practical Law Trusts & Estates

Related Content

Law stated as of 22 Nov 2021 · Tennessee, United States

A Q&A guide to the laws governing revocable trusts in Tennessee. This Q&A addresses state laws and customs that impact revocable trusts, including the key statutes and rules related to revocable trusts, the requirements for creating a valid revocable trust agreement, common revocable trust provisions, information concerning trustees, information on making changes to revocable trust agreements after execution, and Tennessee's treatment of certain special circumstances for gifts made under a revocable trust agreement and gift recipients. Answers to questions can be compared across a number of jurisdictions (see Revocable Trusts: State Q&A Tool).

Can you create an oral trust?

Unlike Wills, you can have an enforceable Trust that is not written down—referred to as an oral Trust. The idea behind an oral Trust is that you can give property (other than real property) to someone as a "Trustee" and ask them to hold it in favor of a beneficiary.

LEGAL AUTHORITY;

"Restatement of the Law Third Trusts § 69 "If the legal title to the trust property and the entire beneficial interest become united in one person, the trust terminates."

"Comment:

a. Acquisition of beneficial interest by trustee. If by inter vivos transfer, will, or operation of law the entire beneficial interest in trust property passes to the trustee, the trust terminates and the trustee holds the property free of trust."

e. Cross-references. This Section deals with a trust that is extinguished by the doctrine of merger. Compare § 10 to the effect that a trust is not created when, at the outset, a single person acquires all legal and all equitable interests in the trust property—ie., would be both sole trustee and sole beneficiary, as might result from a partial intestacy of the would-be settlor of an intended testamentary trust."

This Declaration is governed by this Bill in Equity and Inherent and Statutory Equity in Nature and is being invoked as a special Court of Equity in Chancery, Complainant-Claimant-Grantor-Donor-Konica-Renee of the Family of Moore as the Executrix is creating this Court of Special Equity by Special Appearance without waiving any Equitable or Legal Rights, Titles, Ownership, Interests, in the Nature of Remedies or Defenses Primary Mortgage Residential Inc., **Statutory or Procedural and against the Plaintiff/Claimee** Primary Mortgage Residential Inc., **Plaintiff-Claimee is a Constructive Trustee by the Nature of an Equitable Lien imposed by a Constructive Trust herein established by Operation of Law and alleges do to their acts of Fraud in Transfering, Conveying and Conversion of Claimants Estate, Real Estate and Loan Documents including but not limited to the Deed of Trust and Promissory Note, Constructive and Actual Fraud, Acts of Undue Influence, breach of fiduciary duty, Failure to Disclose, Fraudulent and Negligent Misrepresentation, Tortious interference with Inheritance Rights, Abuse of Process, Tortious Misfeasance and Nonfeasance, Conspiracy to Defraud, Equitable Conversion and Unjust Enrichment. Such causes of action also will support a claim for Equitable Relief and Forfeiture of the "Bonds" of the named Plaintiffs-Claimees. The above Complainant-Claimant-Grantor-Donor-Executrix Konica Renee of the Family of Moore alleges that She has no Plain, Speedy or Adequate Remedy at Law and that these proceedings are counter to Equity and are irreparably damaging Her right to title and ownership of Her Property, Real, Personal, Tangible, Intangible, Corporeal and Incorporeal, Estate, Real Estate and Land of a Private Trust now established by Special Deposit from which relief may be granted by this Original, Inherent, Special Court of Equity by Subrogation and Substitution to the Plaintiff-Claimee, which is predicated on, Complainant-Claimant-Grantor-Settlor-Trustor-Donor-Executrix Konica-Renae of the Family of Moore's Redemption. So, Complainant-Claimant-Grantor-Donor-Executrix Konica-Renee of the Family of Moore is entitled to the benefit of any indemnity, or**

collateral security, given by the Plaintiff-Claimee to his surety, by the merger of both Legal and Equitable Title of the Estate of the Decedent KONICA RENEE MOORE and by the merger of the Trustee(s) and Beneficiary(ies), thereby terminating the cestui qui trust or cestui a que use le feoffment fuit fait "The person for whose use the feoffment was made." Where, in any case, Themselves as the persons not primarily liable to pay the debt, or discharge an encumbrance or lien of the Plaintiff-Claimee, being under legal compulsion so to do, They will in Equity be to all of the Plaintiff-Claimee-Creditor's rights against the person(s) primarily liable and thereby extinguishing any debt or liability attached to the same. Where two or more persons are bound by a common charge, not arising from a tort, and one of them pays more than his share of the common liabilities, she-he can compel the other or others to reimburse her-him. This rule of Equity is based on the broad principle that where one person has discharged more than Their share of a debt or obligation which others are equally bound with Them to discharge, the others ought in conscience to refund to Them enough to reduce Their burden to an equality with theirs.' In a Court of Chancery Equality is Equity. This rule applies as between co-principals, co-sureties, co-owners of property, co-insurers, co-heirs, co-devisees, co-legatees, co-owners of party walls, co- partners, co-directors and co-stockholders in a corporation, and even to co-tort-feasors, when the one asking relief was not primarily liable, or was innocent of the tort under Tennessee contribution and indemnification Home

Resources for Tort Attorneys

Day on Torts: Leading Cases in Tennessee Tort Law

Chapter 15: Comparative Fault Rule;

§15.16 Effect of Co-Tortfeasor Committing Intentional Wrong

§15.16 Effect of Co-Tortfeasor Committing Intentional Wrong

The Case: *Limbaugh v. Coffee Medical Center*, 59 S.W.3d 73 (Tenn. 2001).

The Basic Facts: Plaintiff, originally acting as the conservator for his mother, filed suit against Defendant medical center and its

employee, a nursing assistant, to recover damages for his mother's injuries when she was assaulted by the nursing assistant.

The Bottom Line:

- **"The final issue presented for our review is whether the trial court erred in apportioning fault between the negligent and intentional defendants where the intentional conduct was the foreseeable risk created by the negligent nursing home.[FN9] This question is one of first impression and requires us to review our holding in *Turner v. Jordan*, 957 S.W.2d 815 (Tenn. 1997).**

FN9 Interestingly, the issue of Ms. Ray's immunity from suit for her tortious actions committed as a governmental employee has not been raised in the trial court, the Court of Appeals, or in this Court. Therefore, any claims for Ms. Ray's immunity made pursuant to Tennessee Code Annotated § 29-20-310(b) ("No claim may be brought against an employee or judgment entered against an employee for damages for which the immunity of the governmental entity is removed by this chapter unless the claim is one for medical malpractice brought against a health care practitioner. . . .") have been waived."

59 S.W.3d at 86.

- **"In Turner, the plaintiff, a hospital nurse, was assaulted and severely injured by Tarry Williams, a mentally ill patient in the hospital where she worked. Dr. Jordan, Williams's treating psychiatrist, had diagnosed his patient as 'aggressive, grandiose, intimidating, combative, and dangerous,' *id.* at 817 (emphasis omitted), but he nevertheless decided to discharge him from the hospital by 'allowing him to sign out AMA [Against Medical Advice].' *Id.* (alteration in original). After her attack, the plaintiff brought suit against Dr. Jordan, alleging that he violated his duty to use reasonable care in the treatment of his patient, which proximately caused her injuries and resulting damages. After determining that the psychiatrist did indeed owe a duty of care to the plaintiff nurse because he knew or** should have known that his patient posed 'an unreasonable risk of harm to a foreseeable, readily identifiable third person,' *id.* at 821, we then held that the 'conduct of a negligent defendant should not be compared with the intentional conduct of another in determining comparative fault where the intentional conduct is the foreseeable risk created by the negligent tortfeasor.' *Id.* at 823." *Id.*

- "We held the defendant responsible for the entire amount of the plaintiff's damages for several reasons. First, we determined that the legal conception of 'fault' necessarily precluded the allocation of fault between negligent and intentional actors because 'negligent and intentional torts are different in degree, in kind, and in society's view of the relative culpability of each act.' *Id.*[FN10] Second, we expressed our concern that allowing comparison would reduce the negligent person's incentive to comply with the applicable duty of care and thus prevent further wrongdoing. *Id.* Finally, we recognized that when a defendant breaches a duty to prevent the foreseeable risk of harm by a nonparty intentional actor, that negligent co-tortfeasor cannot reduce his or her liability by relying on the foreseeable risk of harm that he or she had a duty to prevent. *Id.*

FN10 As aptly expressed by the dissenting opinion in a case decided by the Wyoming Supreme Court, The law of intentional torts constitutes a separate world of legal culpability. It is a system that balances specific rights and obligations, and imposes liability on the basis of a party's intent, rather than the moral blameworthiness of that party's conduct by societal standards. The real qualitative distinctions between intentional torts and other forms of culpable conduct share a single origin-the 'duty' concept. Intentional torts are dignitary by nature. They are designed to protect one's right to be free from unpermitted intentional invasions of person or property. Alternatively, the duty underlying an action in negligence or strict products liability is to avoid causing, be it by conduct or by product, an unreasonable

risk of harm to others within the range of proximate cause foreseeability. These distinct worlds of culpability cannot be reconciled.

***Mills v. Reynolds*, 807 P.2d 383, 403 (Wyo. 1991) (Urbigkit, C.J., dissenting)."**

***Id*. at 86-87.**

- **"The present case presents a different factual setting. Unlike *Turner*, the plaintiff here has brought a cause of action against all tortfeasors whose unreasonable acts have contributed to the elderly resident's injuries. Consequently, we are required to determine how to assign causal responsibility between negligent and intentionally tortious defendants where the intentional misconduct is the foreseeable risk created by the negligent defendant. We continue to adhere to the principle established in *Turner* that the conduct of a negligent defendant should not be compared with the intentional conduct of a nonparty tortfeasor in apportioning fault where the intentional conduct is the foreseeable risk created by the negligent tortfeasor. *Id.*; *see also White v. Lawrence*, 975 S.W.2d 525, 531 (Tenn. 1998) (holding that the defendant physician's liability would not be reduced by comparing his negligent conduct with the decedent's intentional act of committing suicide since the intentional act was a foreseeable risk created by the defendant's negligence). After careful consideration, we conclude that where the intentional actor and the negligent actor are both named defendants and each are found to be responsible for the plaintiff's injuries, then each defendant will be jointly and severally responsible for the plaintiff's total damages. *See generally* [Restatement (Third) of Torts] § 24 (1999). Therefore, both CMC and Ms. Ray are each liable for all of the plaintiff's damages.[FN11]**

FN11 Although statutory principles of contribution and indemnity apply, there is 'no right of contribution in favor of any

tort-feasor who has intentionally caused or contributed to the injury.' Tenn. Code Ann. § 29-11-102(c)."
***Id*. at 87.**

- **"Although our adoption of comparative fault abrogated the use of the doctrine of joint and several liability in those cases where the defendants are charged with separate, independent acts of negligence, *see McIntyre v. Balentine*, 833 S.W.2d 52, 58 (Tenn. 1992), the doctrine continues to be an integral part of the law in certain limited instances. *See Owens v. Truckstops of Am.*, 915 S.W.2d 420, 431 n.13, 432 (applying joint and several liability to parties in the chain of distribution of a product when the theory of recovery is strict liability); *see also Resolution Trust Corp. v. Block*, 924 S.W.2d 354, 355-56 (Tenn. 1996) (holding the officer and director jointly and severally liable to the corporation for their collective actions). We believe that in the context of a negligent defendant failing to prevent foreseeable intentional conduct, the joint liability rule 'is a very reasonable and just rule of law which compels each to assume and bear the responsibility of the misconduct of all.' *Resolution Trust Corp.*, 924 S.W.2d at 356. Consequently, we reverse the trial court's apportionment of fault and hold that CMC and Louise Ray are jointly and severally liable for the full amount of damages awarded to Mr. Limbaugh. However, because the trial court incorrectly apportioned damages between the two tortfeasors, we remand this case to the Circuit Court for Coffee County to determine the total amount of damages for which each tortfeasor shall be jointly and severally liable." *Id.* at 87-88.**

Recent Cases: *Dean v. Weakley County Bd. of Educ.*, No. W2007-00159-COA-R3-CV, 2008 WL 948882 (Tenn. Ct. App. Apr. 9, 2008) (holding public duty doctrine did not apply to school because school's duty was not to public at large; rather, schools have a duty to exercise reasonable care to supervise and protect students from injury, including the intentional acts of third parties).

After an accident, many injury victims and their families want more information on the accident and their legal rights. Consequently, many of them have found their way to these pages. While we are happy you are here, please understand *Day on Torts: Leading Cases in Tennessee Tort Law* was written to be a quick, invaluable reference for Tennessee tort lawyers. While the book provides the leading case for more than 300 tort law subjects and thousands of related case citations, it is not a substitute for personalized legal advice from a qualified lawyer.

The foregoing is an excerpt from *Day on Torts: Leading Cases in Tennessee Tort Law*, published by John A. Day, Civil Trial Specialist, Fellow in the American College of Trial Lawyers, recipient of Best Lawyers in America recognition, Martindale-Hubbell AV® Preeminent™ rated attorney, and Top 100 Tennessee Mid-South Super Lawyers designee.

Hutchens *v.* MAXICENTERS, USA, 541 So. 2d 618 (Fla. Dist. Ct. App. 1989)

District Court of Appeal of Florida

Filed: April 13th, 1989
Precedential Status: Precedential
Citations: 541 So. 2d 618
Docket Number: 87-1515
Author: Winifred Sharp

This case involves a most important and fundamental practice and procedural issue as to the present status in Florida of the difference between law and equity and the difference between remedies and causes of action which should be openly addressed en banc by this court and the Florida Supreme Court. The essential issue is whether the 1954 merger of law procedure and equity procedure has resulted in an amalgamation of the theory and substance of those two bodies of law to the extent that a strictly law remedy, such as replevin, can now be used to directly enforce a strictly equitable cause of action, such as an action to establish a constructive trust.

An employee steals money from his employer and uses it to purchase an automobile with the legal title in the employee's name. Can the employer recover possession of the automobile from the employee by an action at law for replevin? The answer should be no.

Replevin is a possessory law action. The employer does not have legal title to the automobile[1] and is not otherwise entitled to the immediate possession of it. The employee, of course, has violated substantive legal rights of the employer and the employer does have the choice of several LEGAL REMEDIES to redress the violation of these rights. The employer can recover his stolen money by suing the employee at LAW on one or more theories of recovery (SUBSTANTIVE CAUSES OF ACTION) (for example, the tort of CONVERSION or implied ASSUMPSIT, specifically, the implied contractual theory known as the COMMON COUNT for MONEY HAD AND RECEIVED), the same as the employer can sue any stranger who converts his property, and obtain a money judgment, have execution issue and cause the sheriff to seize and sell the automobile *620 (or other leviable property of the employee) to satisfy the judgment. However, a court of LAW does not have the SUBJECT MATTER JURISDICTION necessary for it to recognize or adjudicate the breach of TRUST which is inherent in the employee's theft from his employer, or to provide the employer a direct customized EQUITABLE REMEDY. COURTS OF EQUITY have EXCLUSIVE JURISDICTION to do that. By proper allegations of fact and demand for relief[2] in a complaint in EQUITY the employer can INVOKE the EXCLUSIVE JURISDICTION of a COURT OF EQUITY to recognize the TRUST relationship between the employee and the employer, to find and adjudicate the employee's breach of that TRUST, and to exercise the special POWER and AUTHORITY of that particular branch, system, or body of law known as EQUITY or CHANCERY (1) to recognize an equitable cause of action because of the lack of power of a COURT of LAW to recognize the employer's SUBSTANTIVE EQUITABLE RIGHTS, which are not known to, or cognizable by, courts of law and (2) to provide any peculiar and special EQUITABLE REMEDIES that might be needed to enforce the employer's substantive equitable rights which are exemplified by corresponding EQUITABLE CAUSES OF ACTION. Specifically, the employer may plead an EQUITABLE CAUSE OF ACTION for a CONSTRUCTIVE TRUST, and seek an equitable adjudication that the employee's purchase of the automobile with the employer's money resulted, in equity and fairness, in the employee holding the LEGAL TITLE to the automobile in TRUST for the USE AND BENEFIT of the employer who thereby became the beneficial or equitable titleholder, OR, if he prefers, the employer can view and plead the facts to state an equitable cause of action for an EQUITABLE LIEN and obtain an adjudication that the employee's LEGAL TITLE to the automobile is encumbered by an EQUITABLE LIEN in favor of the employer to the extent that the employer's money was used as purchase money for the automobile. If a CONSTRUCTIVE TRUST is established, the equity court may EXECUTE or enforce the trust by ordering (in the form of a mandatory injunction) the employee to transfer the legal title to, and possession of, the automobile to the employer as beneficial owner, and enforce that injunction or order by the equity court's contempt power,[3] and, if necessary, as relief incident to the exercise of its exclusive equity jurisdiction, the equity court can

enforce the employer's resulting legal title and right to possession by any LAW REMEDY available to a law court (such as a writ of replevin or a money judgment should the automobile become lost or destroyed). If an EQUITABLE LIEN is established, the equity court can enforce that lien in any manner that a law court can enforce a lien cognizable by law.

"Equity jurisdiction" as distinguished on the one hand from the general power to decide matters at all, and on the other hand, from the jurisdiction "at law" or "common-law jurisdiction," is the power to hear certain kinds and classes of civil causes according to the principles of the method and procedure adopted by the courts of chancery, and to decide them in accordance with the doctrines and rules of equity jurisprudence, which decision may involve either (1) the determination of the equitable rights, estates and interests of the parties to such causes, or (2) the granting of equitable remedies. In order that a cause may come within the scope of equity jurisdiction, one of two alternatives is essential: (1) either the primary right, estate or interest to be maintained, or the violation of which furnishes the cause of action, must be equitable rather than legal; or (2)(a) the remedy granted must be in its nature purely equitable, or (2)(b) if it be a remedy which may also be given by a court of law, it must be one which, under the facts and circumstances of the case, can only be made complete and adequate through the application of equitable doctrines, principles or remedies.[4] It is customary *621 to distinguish equitable jurisdiction as exclusive and concurrent, which distinction relates wholly to the nature and form of the remedies and properly belongs, therefore, only to that part of the jurisdiction which is based upon these remedies, i.e., (2)(a) or (2)(b) above. Equity jurisdiction embraces both cases for the maintenance or protection of primary rights, estates and interests purely equitable, and cases for the maintenance or protection of primary rights, estates and interests purely legal; and in the latter class of cases the remedies granted may be of a kind which are peculiar to equity courts, such as, reformation, cancellation, injunction, etc., or remedies of a kind which are administered by courts of law, as the recovery of money, or of the possession of specific real and personal property. The distinction between the exclusive and concurrent jurisdiction of equity represents the fact that the two kinds of remedies, equitable and legal, may, under proper circumstances, be obtained in the class of cases that involve the recovery of money or of the possession of specific things.[5]

The exclusive jurisdiction of equity extends to and embraces, (1) all civil cases in which the primary right violated or to be declared, maintained or enforced is purely equitable and not legal, and (2) all civil cases in which the adjudication sought involves a right, estate, title, or interest created by equity, and not by law.[6] This class of cases, of course, includes the equitable concepts of unjust enrichment and constructive trust and the interest in property created by a court of equity by application of the doctrine of constructive trusts. This class of cases falls under equitable jurisdiction alone, because of the nature of the primary or substantive right to be established, redressed, maintained, or enforced and not because of the nature of the remedies to be granted. Although in most such instances, the remedy is also equitable, it need not be necessarily so, such as, where, as in this case, the right to possession of a specific automobile is involved. Pomeroy[7] states the proposition controlling this case, as follows:

It is a proposition of universal application that courts of law never take cognizance of cases in which the primary right, estate, or interest to be maintained, or the violation of which is sought to be redressed, is purely equitable, unless such power has been expressly conferred by statute; and if the statutes have interfered and made the right or the violation of it cognizable by courts of law, such right thereby becomes to that extent legal.
This "proposition of universal application" is no "hyper-technical view."

The exclusive jurisdiction of equity includes all civil cases based upon or relating to equitable estates, interests, and rights in property as the subject-matter of the action. Chief among these are cases involving the recognition of trusts arising by operation of law from the conduct of parties. Constructive trusts are one such species and are raised by equity for the purpose of working out right and justice, where there was no intention of the party to create a trust relationship. All instances of constructive trusts may be referred to what equity denotes as fraud, either actual or constructive, including acts or omissions in violation of fiduciary obligations. If one party obtains the legal title to property by fraud or by violation of confidence or of fiduciary relations or in any other unconscientious manner, so that he cannot equitably *622 retain the property which really belongs to another, equity carries out its theory of a double ownership, equitable and legal, by impressing a constructive trust upon the property in favor of the one who is in good conscience entitled to it and who is considered in equity as the beneficial owner. Whenever a person in a fiduciary capacity breaches his trust and purchases property with trust funds and takes the title thereto in his own name, without any declaration of trust, a trust arises with respect to such property in favor of the cestui que trust or beneficiary. Equity regards such a purchase as made in trust for the person beneficially interested, independent of any imputation of fraud and without requiring any proof of an intention to violate the fiduciary obligation because it is assumed that the purchaser intended to act in pursuance of his fiduciary duty and not in violation of it.[8]

Williams Management Enterprises, Inc. v. Buonauro, 489 So.2d 160 (Fla. 5th DCA 1986) in essence, holds only that the common law remedy of replevin relates only to tangible personal property that a sheriff, executing a writ, can physically identify and seize and is inappropriate as applied to an intangible, such as, the debtor-creditor relationship existing between a lawyer and a client who has deposited money in the lawyer's trust account or as exists between a depositor and a bank as to monies deposited by the depositor with the bank. Therefore, the *Buonauro* case is inapplicable in this case where the property sought to be replevined is a specific Mercedes automobile.

However, where the right to possession of specific personal property is not a right in law, such as that of a legal titleholder or one claiming possession by or through the legal titleholder, but is a right cognizable only in equity and which must first be established by the bringing of a cause of action in equity the remedy of replevin in a court of law is unavailable, the claimant must sue in equity to have the equitable right established and that equitable right,

enforced or established as a legal right, and may not, alternatively, file an action at law for replevin and establish the right to possession in a court of law based on equitable principles.

The line between these two branches or systems or bodies of law, while unclear and archaic to many who are unfamiliar and impatient with the historic reasons for it, was, and is, JURISDICTIONAL, although in a peculiar sense of that word. It clearly existed as part of the "common and statute laws of England" "down to the 4th day of July, 1776," has not been changed by statute in Florida and is of force in this state by virtue of section 2.01, Florida Statutes. In Florida since the adoption and ratification of the Constitution of 1868, circuit courts have been courts of general jurisdiction with original jurisdiction in all cases of law not cognizable by inferior law courts and with original jurisdiction in all cases of equity. In 1954, the Florida Supreme Court merged the 1950 Florida Common Law Rules and the 1950 Florida Equity Rules into one practice and procedure. However, neither by constitutional amendment, nor by legislative act, nor by court rule, has there been a merger or elimination of differences in substance between the two bodies of law known as common law and equity. The contrary view fails to recognize the vast and valuable differences between substantive law and procedure, between "right" and "remedy," and between "law" and "equity."

Unfortunately, equity is no longer taught in our law schools as a separate body of substantive law.[9] The separate treatises on the subject Pomeroy, Story, and Kooman are now substantially out of print and the field is clearly declining in recognition *623 and use.[10] Generally speaking, however, law courts have only the jurisdiction to render money judgments and common law writs of ejectment and replevin. All actions for more specific relief, such as, cases involving dissolutions of marriage, custody, guardianships, dissolutions of partnership, accounting, mortgage foreclosure, partition, subrogation, specific performance of contracts, the adjudication of equitable rights of beneficiaries under express trusts, the establishment of equitable liens, resulting trusts and constructive trusts, actions to reform, cancel or rescind instruments and agreements, actions for declaratory decrees, and actions for injunctions and to quiet title, are all causes of action which are peculiarly cognizable only in equity or chancery and are not within the jurisdiction of a court exercising only common law jurisdiction. This court does not have authority to abolish the substantive distinctions between common law and equity, nor has the effect of such a proposal been carefully considered. It is more complicated than merely writing, "There is no reason *in this case* why a court of law cannot apply equitable principles, and grant the legal relief requested" or "There appears to be no rational basis to dichotomize this remedy... ." Why "in this case"? Is the substantive difference between law and equity to be abolished in Florida case by case? Why are we starting in this case? In the next case are we to approve ejectment actions at law to enforce a plaintiff's claim of an equitable title to a parcel of land? Or use equitable remedies to enforce bare legal rights based on contract and tort principles? As the parties of replevin and ejectment actions are entitled to jury trials, will we not need Standard Jury Instructions explaining to juries the basis upon which judges of courts of equity have historically applied equity principles and

exercised judicial discretion in equity cases? Are the parties in other cases founded upon equitable causes of action, including dissolutions of marriage, likewise entitled to jury trials? A court of law adjudicates cases based on legal, not equitable, principles and rights and can grant only legal remedies to enforce legal rights and to redress the violation of legal rights. A court exercising equitable jurisdiction adjudicates cases based on equitable and legal causes of action and principles and recognizes both legal and equitable rights but may, as needed to enforce equitable rights, use either remedies which are exclusively available in equity, or remedies that are available to law courts to enforce legal rights, i.e., money judgments. The common law concept of trusts is based on dividing title to property into two concepts, one legal and the other equitable, with a trust relationship being involved when the equitable title is separated from the legal title with the resulting necessity of dual concepts of legal and equitable rights and remedies. How much are we to disregard or change? What is the intended or probable result? While unnecessarily complicated to those who are unfamiliar with the reason for it, the dual nature of law and equity is essentially based on the differing needs of a multi-faceted society (agricultural, industrial, business, financial, social, political, etc.) which somewhat reflects the multi-faceted (physical, spiritual, mental, moral, emotional, social, etc.) nature of man. Equity, as a separate system or body of law, was conceived and developed based *624 on the wisdom and experience of many centuries. It should not be altered except knowingly and deliberately by those with authority and a full knowledge of the particular reasons for the origin of each of its many maxims, principles and practices and a clear vision of the effect of any change. The panel opinion in this case, does not meet those requirements.

COBB, J., concurs.

NOTES

[1] The legal titleholder of property is presumptively entitled to possession of that property. Thus in Hughes Trust & Banking Co. v. Consolidated Title Co., 81 Fla. 568, 88 So. 266 (Fla. 1921), when officers of an abstract company signed a conditional contract of sale subject to ratification by stockholders and delivered the physical assets of the company to a prospective purchaser, the legal title to the assets remained in the abstract company, so when the stockholders refused to ratify the sale, the abstract company's proper remedy to recover its assets was an action at law for replevin and it was therefore error for the chancellor not to dismiss the abstract company's bill for equitable injunctive relief.

[2] Fla. R. Civ. P. 1.110(b).

[3] *See* Fla. R. Civ. P. 1.570(c).

[4] 1 Pomeroy, Equity Jurisprudence, Sec. I, Fundamental Principles and Divisions, § 130, p. 176 (5th Ed., Symons, 1941); *see also* Kooman, Florida Chancery Pleading and Practice, Sec. 4, Definition of Equity Jurisdiction, p. 7 (1939). *Also see Malone v. Meres,* 91 Fla. 709, 109 So. 677 (1926).

[5] 1 Pomeroy, Equity Jurisprudence, Sec. I, Divisions Equity Jurisdiction as Exclusive, Concurrent and Auxiliary, § 136, p. 186 (5th Ed., Symons, 1941).

[6] *See generally,* 1 Pomeroy, Equity Jurisprudence, Sec. I, Exclusive Jurisdiction Where Primary Right is Purely Equitable, § 137, p. 187 and Sec. II, The Exclusive Jurisdiction, § 146, p. 198 (5th Ed., Symons, 1941).

[7] 1 Pomeroy, Equity Jurisdiction, Part I, Ch. I, Sec. I, Exclusive Jurisdiction Where Primary Right is Purely Equitable, § 137, p. 188, Note 17 (5th Ed., Symons, 1941).

[8] *See* 1 Pomeroy, Equity Jurisprudence, Sec. 11, The Exclusive Jurisdiction Trusts Arising by Operation of Law, § 155, p. 209 and 4 Pomeroy, Equity Jurisprudence, Sec. V, Constructive Trusts § 1044, p. 93 (5th Ed., Symons, 1941) generally.

[9] At the University of Florida College of Law, Equity Jurisprudence was taught as a 5 credit course in 1947-48, a 3 credit course in 1948-49, and a 2 credit course from 1949 through 1960.

[10] In the preface to the first edition of his text book on Equity Jurisprudence in May, 1881, Professor John Norton Pomeroy was greatly concerned about the disastrous consequences of the then tendency to abolish the external distinctions between actions at law and actions in equity, the union of legal and equitable rights and remedies in one proceeding and the substitution of legal and equitable methods. Perhaps history will note that the rise and decline of Equity as a separate and distinct body of substantive law in Florida as paralleling the frequency with which reported Florida cases referred to Pomeroy's Equity Jurisprudence over the decades, which is illustrated as follows: 1890's 1; 1900's 3; 1910's 5; 1920's 11; 1930's 40; 1940's 28; 1950's 24; 1960's 23; 1970's 9; 1980's 4 to date, with this opinion being the fifth. Similarly, cases citing Story, Commentaries on Equity Jurisprudence (1884) are as follows: 1900's 1; 1910's 0; 1920's 1; 1930's 5; 1940's 2; 1950's 2; 1960's 0; 1970's 2; 1980's 1 to date with this opinion being the second.

RESPECTIVELY SUBMITTED THIS DAY OF MARCH 2022

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Konica Moore

MEMORANDUM OF POINTS & AUTHORITIES IN SUPPORT OF MOTION TO VACATE A VOID JUDGMENT.

Leviticus 25 ordains a sabbath year, one in every seven (Lev. 25:1-7), and a jubilee year, one in every fifty (Lev. 25:8-17), to sanctify Israel's internal economy. In the sabbath year, each field was to lie fallow, which appears to be a sound agricultural practice. The year of jubilee was much more radical. Every fiftieth year, all leased or mortgaged lands were to be returned to their original owners, and all slaves and bonded laborers were to be freed (Lev. 25:10). This naturally posed difficulties in banking and land transactions, and special provisions were designed to ameliorate them (Lev. 25:15-16), which we will explore in a moment. The underlying intent is the same as seen in the law of gleaning (Lev. 19:9-10), to ensure that everyone had access to the means of production, whether the family farm or simply the fruits of their own labor.

It is not fully known whether Israel actually observed the jubilee year or the antislavery provisions associated with it (e.g., Lev. 25:25-28, 39-41) on a wide-scale basis. Regardless, the sheer detail of Leviticus 25 strongly suggests that we treat the laws as something that Israel either did or should have implemented. Rather than see the jubilee year as a utopian literary fiction, it seems better to believe that its widespread neglect occurred not because the jubilee was unfeasible, but because the wealthy were unwilling to accept the social and economic implications that would have been costly and disruptive to them.[1]

Protection for the Destitute

After Israel conquered Canaan, the land was assigned to Israel's clans and families as described in Numbers 26 and Joshua 15-22. This land was never to be sold in perpetuity for it belonged to the Lord, not the people (Lev. 25:23-24).[2] The effect of the jubilee was to prevent any family from becoming permanently landless through sale, mortgage or permanent lease of its assigned land. In essence, any sale of land was really a term lease that could last no longer than the next year of jubilee (Lev. 25:15). This provided a means for the destitute to raise money (by leasing the land) without depriving the family's future generations of the means of production. The rules of Leviticus 25 are not easy to figure out, and Milgrom makes good sense of them as he defines three progressive stages of destitution.[3]

1. The first stage is depicted in Leviticus 25:25-28. A person could simply become poor. The presumed scenario is that of a farmer who borrowed money to buy seed but did not harvest enough to repay the loan. He therefore must sell some of the land to a buyer in order to cover the debt and buy seed for the next planting. If there was a person who belonged to the farmer's clan who wished to act as a "redeemer", he could pay the buyer according to the number of remaining annual crops until the jubilee year when it reverted to the farmer. Until that time, the land belonged to the redeemer, who allowed the farmer to work it.
2. The second stage was more serious (Lev. 25:35-38). Assuming that the land was not redeemed and the farmer again fell into debt from which he could not recover, he would forfeit all of his land to the creditor. In this case, the creditor must lend the farmer the funds necessary to continue working as a tenant farmer on his own land, but must not charge him interest. The farmer would amortize this loan with the profit made from the crops, perhaps eliminating the debt. If so, the farmer would regain his land. If the loan was not fully repaid before the

jubilee, then at that time the land would revert back to the farmer or his heirs.

3. The third stage was more serious still (Lev. 25:39-43). Assuming that the farmer in the previous stage could neither pay on the loan or even support himself and his family, he would become temporarily bound to the household of the creditor. As a bound laborer he would work for wages, which were entirely for reduction of the debt. At the year of jubilee, he would regain his land and his freedom (Lev. 25:41). Throughout these years, the creditor must not work him as a slave, sell him as a slave, or rule over him harshly (Lev. 25:42-43). The creditor must "fear God" by accepting the fact that all of God's people are God's slaves (NRSV "servants") whom he graciously brought out from Egypt. No one else can own them because God already does.

The point of these rules is that Israelites were never to become slaves to other Israelites. It was conceivable, though, that impoverished Israelites might sell themselves as slaves to wealthy resident aliens living in the land (Lev. 25:47-55). Even if this happened, the sale must not be permanent. People who sold themselves must retain the right to buy themselves out of slavery if they prospered. If not, a near relative could intervene as a "redeemer" who would pay the foreigner according to the number of years left until the jubilee when the impoverished Israelites were to be released. During that time, they were not to be treated harshly but be regarded as hired workers.

What Does the Year of Jubilee Mean for Today?

The year of jubilee operated within the context of Israel's kinship system for the protection of the clan's inalienable right to work their ancestral land, which they understood to be owned by God and to be enjoyed by them as a benefit of their relationship with him. These social and economic conditions no longer exist, and from a biblical point of view, God no longer administers redemption through a single political state. We must therefore view the jubilee from our current vantage point.

A wide variety of perspectives exists about the proper application, if any, of the jubilee to today's societies. To take one example that engages seriously with contemporary realities, Christopher Wright has written extensively on the Christian appropriation of Old Testament laws.[4] He identifies principles implicit in these ancient laws in order to grasp their ethical implications for today. His treatment of the jubilee year thus considers three basic angles: the theological, the social, and the economic.[5]

Theologically, the jubilee affirms that the Lord is not only the God who owns Israel's land; he is sovereign over all time and nature. His act of redeeming his people from Egypt committed him to provide for them on every level because they were his own. Therefore, Israel's observance of the Sabbath day and year and the year of jubilee was a function of obedience and trust. In practical terms, the jubilee year embodies the trust all Israelites could have that God would provide for their immediate needs and for the future of their families. At the same time, it calls on the rich to trust that treating creditors compassionately will still yield an adequate return.

Looking at the *social* angle, the smallest unit of Israel's kinship structure was the household that would have included three to four generations. The jubilee provided a socioeconomic solution to keep the family whole even in the face of economic calamity. Family debt was a reality in ancient times as it is today, and its effects include a frightening list of social ills. The jubilee sought to check these negative social consequences by limiting their duration so that future generations would not have to bear the burden of their distant ancestors.[6]

The *economic* angle reveals the two principles that we can apply today. First, God desires just distribution of the earth's resources. According to God's plan, the land of Canaan was assigned equitably among the people. The jubilee was not about redistribution but restoration. According to Wright, "The jubilee thus stands as a critique not only of massive private accumulation of land and related wealth but also of large-scale forms of collectivism or nationalization that destroy any meaningful sense of personal or family ownership."[7] Second, family units must have the opportunity and resources to provide for themselves.

In most modern societies, people cannot be sold into slavery to pay debts. Bankruptcy laws provide relief to those burdened with unpayable debts, and descendants are not liable for ancestors' debts. The basic property needed for survival may be protected from seizure. Nonetheless, Leviticus 25 seems to offer a broader foundation than contemporary bankruptcy laws. It is founded not on merely protecting personal liberty and a bit of property for destitute people, but on ensuring that everyone has access to the means of making a living and escaping multi-generational poverty. As the gleaning laws in Leviticus show, the solution is neither handouts nor mass appropriation of property, but social values and structures that give every person an opportunity to work productively. Have modern societies actually surpassed ancient Israel in this regard? What about the millions of people enslaved or in bonded labor today in situations where anti-slavery laws are not adequately enforced? What would it take for Christians to be capable of offering real solutions?

[EXHIBIT B] US EASTERN DISTRICT COURT JUDGE CHRISTOPHER BOYCO ON OCTOBER 31, 2007 DISMISSED 14 Deutsche Bank filed foreclosures in a ruling based on lack of standing for not owning/holding the mortgage loan at the time the lawsuits were filed;
APPENDIX A: Deutsche Bank Foreclosures tossed out of Ohio United States District Court: "They owe nothing": Thursday, 15 November 2007. Judge Christopher A.

Boyko of the Eastern Ohio United States District Court, on October 31, 2007, dismissed 14 Deutsche Bank filed foreclosures in a ruling based on lack of standing for not owning/holding the mortgage loan at the time the lawsuits were filed. Judge Bokyo issued an order requiring the Plaintiffs in a number of pending foreclosure cases to file a copy of the executed Assignment demonstrating [that] Plaintiff (Deutsche Bank) was the holder and owner of the Note and Mortgage as of the date the Complaint was filed, or the Court would enter a dismissal. The Court's amended General Order No. 200616 requires Plaintiff (Deutsche Bank) to submit an Affidavit along with the complaint, which identifies Plaintiff as the original mortgage holder, or as an assignee, trustee, or successor interest. Apparently Deutsche Bank submitted several Affidavits that claim that Deutsche Bank was in fact the owner of the mortgage Note, but none of these Affidavits mention assignment or trust or successor interest. Thus, the Judge ruled that in every instance, these submissions create a "conflict" and they "do not satisfy" the burden of demonstrating at the time of filing the complaint, that Deutsche Bank was in fact the "legal" Note holder. While the decision is great for homeowners in distress (due to providing a new escape hatch out of foreclosure), it is a blow to the cause of sorting out the high finance side of the mortgage mess. Jacksonville Area Legal Aid Attorney, April Charney, made these comments in regard to the Ohio Federal Court Ruling: 'This Court Order is what I have been saying in my cases. This is rampant fraud on every Court in America, or nonjudicial foreclosure fraud where the securitized trusts are filing foreclosures when they never own/hold the mortgage loan at the commencement of the foreclosure'. 'That means that the loans are clearly in default at the time of any eventual transfer of the ownership of the mortgage loans to the trusts. This means that the loans are being held by the originating lenders after the alleged 'sale' to the trust, despite what it says per the pooling and servicing agreements and despite what the securities laws require'. This means that many securitized trusts don't really, legally, own these bad loans'. 'In my cases, many of the trusts try to argue equitable assignment that predates the filing of the foreclosure, but a securitized trust cannot take an equitable assignment of a mortgage loan. It also means that the securitized trusts own nothing'. 'So, with this decision, it appears confirmed that investors in the mortgage débacle may in fact own nothing – not even the bad loans that they funded. It seems that their right to the cash flow from the underlying properties does not extend to ownership of the properties themselves, thus clouding the recovery picture considerably', April Charney further remarked: 'This opinion, once circulated and adopted by State and Federal Courts across the country, will stop the progress of foreclosures, at first in judicial foreclosure states, across America, dead in their tracks'. APPENDIX B: Summary of the Law of Voids in the United States: What follows is a brief summary giving details of how to stop a foreclosure or else to get one's house back after it has been taken through the invalid Court process. Before a Court (Judge) can proceed juridically, jurisdiction must be complete – consisting of two opposing parties (not their Attorneys: although Attorneys can enter an appearance on behalf of a party, only the parties can testify, and until the Plaintiff testifies, the Court has no basis upon which to rule juridically). The two halves of subject matter jurisdiction equate to the statutory or common law authority that the action is brought under (the theory of indemnity) and the sworn testimony of a competent fact witness concerning the injury suffered (= the cause of action). If a jurisdictional failing appears on the face of the record, the matter is void, subject to vacation with damages, and can never be time barred. So a question that naturally occurs is: 'If I successfully vacate a void judgment, can they just come back and try the case again?' The answer to this is that a new suit

must be filed, and that this can only be done within the time period allocated by the Statute of Limitations. Lack of jurisdiction cannot be corrected by an order nunc pro tunc. The only proper office of a nunc pro tunc court order is to correct a mistake in the records: it cannot be used to rewrite history (2). The number of probable void judgments on the books in America's Courthouses is so great that there is no practical means of estimating how many there are. IF EVERY VOID JUDGMENT WERE TO BE VACATED WITH DAMAGES, THE CONSEQUENCE WOULD REPRESENT THE GREATEST SHIFT IN MATERIAL WEALTH IN WORLD HISTORY How does this apply to the mortgage scams identified in this report? Here is the relevant equation: Plaintiff with no contract in hand = No Standing = No jurisdiction = No foreclosure action. Therefore, the real issue in respect of void judgments is SUBJECT MATTER JURISDICTION. Void judgments are judgments rendered by a Court that lacked jurisdiction, either of the subject matter or the parties. • The basic reality is that subject matter jurisdiction can never be presumed, can never be waived, and cannot be constructed, even by mutual consent of the parties. • Subject matter jurisdiction consists of two parts: the relevant statutory or common law authority for the Court to hear the case; and the appearance and testimony of a competent fact witness: in other words, sufficiency of pleadings EPILOGUE Ms April Carney and others stress that this Ohio decision has seriously adverse implications as they put it, for the prospects of any amicable financial workout for various investor communities holding mortgage backed securities. This is because doubt is cast upon where the full write downs will eventually land. The resulting uncertainty was expected, therefore, to harm the market values of so called mortgage backed securities and of mortgage backed securities based synthetic securities, which were already in chaos due to rising underlying delinquencies. Investors in such securities allowed themselves to be misled into assuming, wrongly, that they actually owned some 'real estate' through holding these assets. At the same time, the wholesale marketing of such synthetic 'assets' by, for instance, the GSEs Fannie Mae and Freddie Mac, represented fraudulent transactions. These issues are addressed in the preceding analysis. [Note: Government Sponsored Enterprises are entities established by the federal Government but which 'operate in the private sector'. These off budget US Federal Government hybrids' offer magnificent opportunities for officially condoned fraudulent off budget financial transactions, as has been shown to be the case]. It is probably now too late for compromised Judges to attempt purposefully to misinterpret (a.k.a. to reinterpret) some of the canons and specifics, so as to protect the false debt owners. A financial sector and trading expert consulted for this analysis states that 15 or more years ago, he warned that the new customized derivative contracts that were backed by mere electronic debits and credits represented a grave prospective danger that could take the financial world down with them unless they were transparent, standardized, and backed by a well capitalized clearing house similar to the commodity exchanges that have existed for a century and a half, or more. These fears have turned out to be prophetic and accurate. Nor is it any coincidence that this hazardous financial sector activity 'took off' almost immediately that the criminal cadres had got their hands on Ambassador Wanta's accumulated $27.5 trillion of financial assets held in his wholly owned corporate accounts, after he had been illegally 'taken down' in Lausanne, Switzerland, on 7th July 1993 (see, for instance, the 'Wisconsingate' report on www.worldreports.org dated 6th August 2007: Archive). For these fraudulent transactions leveraged dud assets that were marketed by the Government - Sponsored Enterprises in collaboration with the corrupt US official financial fraudsters and their intelligence community and banking/securities sector co-

conspirators, as 6/3/2016 News 'SUBPRIME' 'SLIDE' THAT MASKS FRAUDULENT FINANCE fraudsters and their intelligence community and banking/securities sector coconspirators, as one component of a vast infrastructure of fraudulent financial recycling mechanisms designed primarily, at the outset, to obfuscate the stealing and diversion of Ambassador Wanta's funds. Notes and References: (1) International Currency Review, World Reports Limited [see this website] Volume 31, Numbers 3 & 4, Fourth Quarter 2006, pages 178179; and International Currency Review, Volume 33, Numbers 1 and 2, September 2007, pages 383 and 285. (2) E.g. Transamerica Insurance Co. v. South, 975 F. 2d 321, 325326 (7th Circuit 1992); United States v. Daniels, 902 F. 2d 1238, 1240 (7th Circuit 1990); King v, Ionization International, Inc., 825 F. 2d 1180, 1188 (7th Circuit 1987); and: Central Laborer's Pension and Annuity Funds v. Griffee, 198 F. 3d 642, 644 (7th Circuit 1999). (3) Wahl v. Round Valley Bank 38 Ariz. 411, 300 P. 955 (1931); Tube City Mining & Milling Co. v. Otterson, 16 Ariz. 305, 146p 203 (1914); and Millken v. Meyer, 311 U.S. 457, 61 S. CT. 339, 85 L. Ed. 2d 278 (1940). • Editor's Note: We are still, from time to time, receiving emails from frustrated people seeking documentation to 'back up' what we publish in these reports. Such correspondents choose to overlook the well known fact that we have published several huge issues of International Currency Review which contain hundreds of pages of facsimiles of relevant documents. Since we are a commercial operation, we cannot make these volumes available free of charge. • However copies are available in many university and other libraries around the world, and of course they can be ordered via this website at any time. But the main point here is that complaints along these lines reveal lack of knowledge of the background, which is that an immense volume of relevant documents has been published, while these reports are approved where necessary and appropriate either by the Principals or by Michael C. Cottrell, M.S., before being posted. In the case of this presentation, the Editor conveyed a copy of the report for Mr Cottrell's attention as a courtesy and at the same time to ensure that what has now been published here does not 'cut across' matters of an intensified nature that are currently in hand. LEGAL SECTION: PLEASE READ THIS INFORMATION, AS IT INDICATES THE DEPTH OF THE DEPRAVITY THAT WANTAGATE HAS EXPOSED. REPETITION OF THIS BASIC DATA IS STILL NECESSARY... • We now repeat, yet again, our familiar summary of the Statutes, securities regulations and fraud information that we have appended to these reports for many months. The reason we append this information is to remind everyone of their clear responsibilities under the US Misprision of Felony legislation, and of course to provide a legal basis for these reports. LEGAL RECAPITULATION FROM REPORT DATED 30TH AUGUST 2007: Reiteration of the fraudulent transactions.

26 USC §§ 671-679 FOREIGN TRUST;

1. IRC
2. Subtitle A
3. Chapter 1
4. Subchapter J
5. Part I
6. Subpart E

Subpart E — Grantors and Others Treated as Substantial Owners (Sections 671 to 679)

Sec. 671. Trust Income, Deductions, And Credits Attributable To Grantors And Others As Substantial Owners

Sec. 672. Definitions And Rules

Sec. 673. Reversionary Interests

Sec. 674. Power To Control Beneficial Enjoyment

Sec. 675. Administrative Powers

Sec. 676. Power To Revoke

Sec. 677. Income For Benefit Of Grantor

Sec. 678. Person Other Than Grantor Treated As Substantial Owner

Sec. 679. Foreign Trusts Having One Or More United States Beneficiaries

EXHIBIT A

'SUBPRIME' 'SLIDE' THAT MASKS FRAUDULENT FINANCE

'THE MONEY YOU MAKE BY ILLEGALLY USING MY MONEY, IS MY MONEY'

Wednesday 26 December 2007 21:31

SEE UPDATE DATED 28TH DECEMBER IMMEDIATELY BELOW....

A PRELIMINARY DECONSTRUCTION OF THE CORRUPTION THAT UNDERLIES THE 'SUBPRIME CRISIS' AND THE 'CREDIT CRUNCH': THE EXTREME GLOBAL IMPLICATIONS EXPLAINED

BECAUSE OF 'FRAUD IN THE INDUCEMENT', NO VALID CONTRACT UNDERLAY THE PACKAGED MORTGAGE TRANSACTIONS, SO THE DEALS ARE NULL AND VOID, THE PAPER WORTHLESS

UPDATE, 28TH DECEMBER: ACCURACY OF THIS REPORT CONFIRMED:
The Editor has received the following confirmations of the accuracy of this report:

(1) From a respected US veteran lawyer/intelligence expert: ' Excellent report of 26 December, legal analysis is completely correct: the entire house of cards will fall on the criminals...'.*

(2) From a victim of mortgage fraud and foreclosures: 'You nailed it BIG time. Yes, this is exactly how it works at that level. The practice of triple-noting is just an add-on 'value added' element of the constructive fraud on the first set of documents'.

Note: The fraud 'works' 100% of the time because the victims seeking access to the property are always keen to complete the transaction, without exception, given that withdrawal at the final stage would cause them, their family members and others, an unacceptable level of inconvenience and disappointment. Therefore, in the unlikely event that a prospective victim smells a rat at the last moment (which apparently hardly ever happens), the new victim can be relied upon to bury any concerns, not least under pressure from a spouse or a fiancee, for example. This insight adds a human dimension to our understanding of how ruthlessly, mercilessly evil the perpetrators are.

(3) From the generous New York-based expert adviser who assisted the Editor with the report: 'You got it 100% correct! Happy holidays'.

(4) From a retired UK-based intelligence analyst: 'This report is an Exocet'.

(5) From US military sources who have read the report: 'It is all totally correct'.

(6) From a very senior trustee: 'Thanks for the excellent article... It is right on target and pulls the covers off the bank fraud that has been endangering the free economies of the world. Good job'.

(7) From the CEO of a California-based corporation: 'Spot on. You might add: Under the Sarbanes Oxley Act, all CEOs signing these fictitious statements are subject to incarceration. I know, as I have to sign a statement every quarter'.

*This expert source has added the following: (a) 'The holder in due course or subsequent holder cannot hold a claim superior to the prior holder'; (b) 'An ultra vires act causes the piercing of the corporate veil or of any similar limited liability or partnership structure, so that the entire liability flows directly to the holder. Furthermore, publicly-owned corportions must publicly disclose a contingent liability reserve in their Securities and Exchange Commission (SEC) filings'; (c) 'A bank may remain a de facto corporation inter se among its shareholders, but if the 'corporation in good standing status' is suspended or otherwise terminated, it is no longer a corporation to the world at large, and it becomes a fraud to represent publicly that this entity is a corporation. Moreover a publicy owned and traded corporation that loses its 'in good standing' status has an affirmative, positive duty to publish a public notice to that effect and to so inform all stockholders immediately. Furthermore, loss of 'in good standing' status by the corporation due to ultra vires acts, may toll the running of any applicable Statute of Limitations in respect of claims against the corporation and its shareholders'. Editor's Note: The 'mainstream' media, compromised because of the Operation Mockingbird CIA penetration and control programme referenced in this analysis, fails to report and investigate such breaches, in disgraceful continuing dereliction of its Fourth Estate duty.

By Christopher Story FRSA, Editor and Publisher, International Currency Review, World Reports Limited, London and New York: www.worldreports.org. Press NEWS and the ARCHIVE Button on the www.worldreports.org Home Page for 'Wantagate' reports since April 2006. [Note: A new panel giving details of our latest publications as they are made available, has been added].

• Please Make a Donation to help finance Christopher Story's ongoing financial global corruption investigations. Your assistance will be very sincerely appreciated and will make a real difference, hastening the necessary resolution of the worst financial corruption and global financial crisis in history. This website has been calling the shots, because of the hijacking of Wanta's Settlement.

THE "SUBPRIME CRISIS' 'SLIDE' THAT COVERS UP THE INGENIOUS FINANCIAL FRAUDS

The sudden widespread use of the catchphrase 'subprime' mortgages since July 2007 has served the same purpose as your typical CIA 'slide' – that is to say, it is a prepackaged, 'politically correct' obfuscatory 'take' on a given set of circumstances that is formulated in such a way as to preclude further thought and investigation. While of course the existence of 'subprime' mortgages is very real, the universal acceptance by the media of this phrase as a comprehensive 'explanation' for all the financial sector horrors that have ensued – from the credit crunch to mounting bankruptcies and systemic problems at money center banks – has served the same function as a 'slide', which is a cynical term developed by US criminalised intelligence to describe and justify a given Psy-Ops 'product' fed to the Goyim or the masses, who have no clue that what they are being told is either false or else 'economical with the truth'.

It is true, however, that the value of US 'subprime' mortgages is estimated at $1.3 trillion, with over 7.5 million of such mortgages currently outstanding.

More than 320,000 foreclosures were initiated during each of the first two quarters of 2007, most of which were related to subprime property loans, compared with the typical annual foreclosure level of 225,000 over the past six years. Approximately 16% of 'subprime' loans having adjustable rate mortgages (ARMs) were 90 days into default or in foreclosure proceedings, as of October 2007, which was triple the rate observed in 2005.

OUTLINE OF A TYPICAL TRANSACTION
It is likely (and should by now be becoming cystal clear) that tens of thousands of FRAUD IN THE INDUCEMENT complaints will be filed by US borrowers against lenders and mortgage brokers who have energetically sold adjustable mortgage arrangements without income verification and other checks, because the lenders and mortgage brokers possessed information on their prospective borrowers that the intended contracted mortgage loan would be unserviceable by the prospective borrower, on the basis of the lenders' and brokers' own financial due diligence that they did not share with the borrower. In such instances, if ruled, then a meeting of minds did not take place and accordingly, no contract ever existed.

This is exactly the line that some Judges are now taking: see Appendix A to this report. Appendix B discusses the Law of Voids in the United States.

In such instances, the borrower will have to vacate the premises, which were never theirs anyway, but will not be responsible for making any payments on the property to anyone. The borrower should also be awarded repayment of any and all mortgage payments they may have made on the property, inclusive of all origination fees, property taxes, recording fees, mandatory insurance premia, plus multiple damages from both the lender and the mortgage broker. There would also need to be NO negative impact upon the borrower's credit file and rating.

DECONSTRUCTION SPOTLIGHTS THE SEETHING MASS OF FRAUD
When these transactions are deconstructed, a horrific nexus of fraud becomes apparent. Once upon a time, the borrower sat down at the closing table at the escrow company. He did NOT own the property when he sat down at the table.

Yet, all of a sudden, he miraculously owns the property, free and clear of all encumbrances: otherwise, how could he mortgage it? The borrower has signed an agreement stating inter alia that 'for good and valuable consideration, RECEIPT OF WHICH IS HEREBY ACKNOWLEDGED', and being fully seized in the property (which means fully owning it without any encumbrance) 'I, the borrower, do hereby enter into this agreement to mortgage said property as fullY described in this document by virtue of my appointment as trustor, and do appoint as trustee irrevocably for this purpose' (the name of the trustee who works for the title company handling the transaction).

Let us pause here. A document has been written which clearly states that the buyer admits to having received 'consideration' of some type PRIOR to this point in time – in exchange for WHAT? He admits that he owns the property free of all debt, otherwise he could not mortgage it. The escrow company agrees with him that the property at this point is free and clear of debt, or else they could not serve as the intermediary fiduciary party certifying these assertions as facts.

But this begs the very obvious question: if the borrower already owns the property, why does he need the mortgage, unless he is borrowing money to be used for some other private purpose of his? If he uses the property as collateral for the loan, when does he receive the money? Has the borrower, or has any party involved, EVER received the money from the mortgagee?

• The answer is NO!

THE ESSENCE OF THE FRAUD

What has actually happened is that the borrower's promissory note was immediately monetised by stamping 'Pay to the order of' on the reverse of the promissory note, which was then deposited as cash into a deposit account at a bank. The borrower was never told that this occurred.

• This 'stamping' procedure amounts to an ACT OF CONVERSION.

Furthermore, the very ACT OF ALTERING A NEGOTIABLE INSTRUMENT after the signature of the payer or original issuer, VOIDS THE INSTRUMENT.

The next thing that happens, again without the knowledge of the buyer, is that the bank opens a transaction account based on the cash deposit of the buyer, and from this transaction account, using the bank's name on a bank check, the check is issued to the seller in the agreed amount according to the sale figures.

• The numbers are of course all just bookkeeping entries, which simply debit the depositor's account by the amount of the bank check.

The seller leaves the escrow office with check in hand, which he then proceeds to deposit in his checking account, whereupon his bank balance increases via bookkeeping entry, while the issuing bank's transaction account is debited via a bookkeeping entry.

The next step in this fraudulent transaction occurs when the bank, now in possession of a large mortgage obligation, sells this mortgage obligation to a lender of some kind or other, usually the Government-Sponsored Enterprises (GSEs) Fannie Mae (Federal National Mortgage Association) or Freddie Mac (Federal Home Loan Mortgage Corporation). The bank then receives full cash payment, again via a simple bookkeeping entry, and is appointed the 'servicer' of the loan for its entire period of existence. The seller is happy, and goes his merry way.

But the buyer possesses no knowledge that he actually funded his own transaction through his own promissory note, and is never told that this was the basis of the entire transaction, or that he still has a demand deposit account at the bank from which the check to the buyer originated via the transaction account.

THE ARRANGEMENT IS FRAUDULENT FROM THE GET-GO

So the entire arrangement is absolutely unconscionable from the outset. Very clearly, as some US courts are showing signs of realising, there was never any valid contract, so that no obligation could ever have arisen based upon its terms. The bank has clearly become unjustly enriched by means of the fraudulently prepared documents which have cleverly and most deviously concealed the true illegal nature of the transaction – wherein the bank was never in any danger of having incurred any risk whatsoever, and was enriched through the sale to the true purchaser of the mortgage, while not handing over the money to the actual issuer of the promissory note as the 'consideration' for the creation of the mortgage.

BANKS' CHARTERS SHOULD BE REVOKED

The bank's charter will clearly reveal and confirm that such acts of concealment, conversion, misrepresentation etc constitute an act that is ultra vires, so that therefore the bank is fully liable for these transgressions, and should have its charter revoked.

Another crucial dimension arising from this skewed state of affairs is that, since the entire note of obligation has now been proven to be null and void ab initio, and the property 'owner' is still the trustor, he is entitled at this point to revoke trustee appointment of the title company's trust document, since it was obtained through fraudulent misrepresentation.

THE POSITION IN WHICH THE PARTIES FIND THEMSELVES
Where does this state of affairs NOW leave all the parties? Since there is no valid mortgage, the property owner is now free to have the property reconveyanced into his name without any other names, hindrance or encumbrance applying to it. Specifically:

- The bank has sold an invalid mortgage to Fannie Mae.

- Fannie Mae is a true holder, since they took it for value as true, and as represented by the bank.

- The mortgage is now worthless as collateral, and can no longer be used as a component of the mortgage-backed securities bundle that has already been sold into the marketplace by Fannie Mae.

- The property owner has no obligation to Fannie Mae, as Fannie Mae was never a party to the sale. On the contrary, the bank is the party that benefited from the payment of cash provided by Fannie Mae, and the bank must therefore make Fannie Mae whole by return of the value by a legitimate means – either by paying cash, or else by the replacement of another fraudulently obtained mortgage.

- That leaves the property owner in possession of a free and clear property, and the criminal bank holding the bag as the entity responsible to the actual lender (Fannie Mae, or whomever), for repayment of the funds advanced.

- The bank cannot lay claim to any property interest, as the bank was engaged in a fraudulent transaction and had no valid contract with the buyer, and acknowledged that the property owner had no claim on this property at the time of the transaction.

WRONGDOERS MAY NOT PROFIT FROM THEIR WRONGDOINGS
Here, we need to take the law as it clearly stands, without second-guessing any dimension of its application, either in the United States or Britain. The law 'leaves wrongdoers where it finds them', and 'they may not profit from their wrongdoings' – a fact of life which is currently being forced into the depraved consciousness of the world-class financial fraudsters who have begun to be exposed via these Wantagate reports.

This reality opens a further can of worms for the banks, in that the law is also governed by a maxim that 'any money you make from the illegal use of my money, is my money'.

THEREFORE WANTA IS ENTITLED TO 100% OF ACCRUALS
FROM HIS MISUSED FUNDS PLUS COMPOUND INTEREST
This is why, to cite the related parallel Wanta case, Ambassador Wanta is entitled to 100% of ALL THE ACCRUALS that have been leveraged from off the back of his original underlying $27.5 trillion, and why he is entitled to all the interest and penalties so far demanded on the

compromise $4.5 trillion that has been illegally withheld from him since June 2006 on the say-so of the criminal financial cheats identified in our reports (Paulson, the Bushes, the Clintons, Cheney, and all the other fraudsters whose names have appeared in this narrative).

WANTA CAN EVEN LAY CLAIM TO OWNING DUBAI AND ABU DHABI
Just in case the hard reality of this has not yet hit home in some minds, the Ambassador, having suffered the rifling and illegal ransacking of the bank accounts of which he is the sole principal, is also entitled to ownership and clear possession of the hundreds of trillions of US dollars that the criminal cadres have generated in the course of their open-ended fraudulent transactions based on the misuse of his compromise $4.5 trillion since it was illegally hijacked by Paulson in June 2006, as well. It might even emerge that the Ambassador is entitled to the physical possession of much of the cities of Dubai and Abu Dhabi, which have sprung up out of nowhere, thanks to the illegal use of untaxed fiat money wealth generated out of his stolen (diverted) funds.

HENCE THE 'COMPROMISE' ACCORD WITH WANTA
It is precisely because of such unimaginable implications of what might be exposed, that it became urgently 'necessary' for the criminal intelligence cadres to reach that 'compromise' agreement with the Ambassador, when it became known in July 2005 that he had 'ceased to be dead'.

However, because those concerned are serial criminal financial fraudsters, they entered into the compromise accord (the text of which, finalised in May 2006, is classified, so obviously the Editor has not seen it) in bad faith – making the crude and rash assumption that, on the basis of their past experience, they could with impunity continue perpetrating their frenetic fraudulent off-balance sheet financial transactions by exploiting Lee Emil Wanta's compromise cash-cash real money $4.5 trillion – stringing the Ambassador along with the intention of using this compromise agreement as a shield behind which to conduct their fraudulent 'business as usual'.

EVERY CENT ILLEGALLY GENERATED BELONGS TO THE AMBASSADOR
Although they have accordingly been able to generate trillions of additional fraudulently procured dollars and euros on the basis of that risky assumption, all that they have achieved is the creation of vast stocks of fiat money funds that belong to the Ambassador in toto, on the basis of the maxim that 'any money you make from the illegal use of my money, is my money'.

• The reality of the bind that these bumbling master financial fraudsters find themselves in as a direct and exclusive consequence of Wantagate is only now dawning upon them, against the background of arrests and other momentous developments that have not yet been reported.

The principal that 'any money you make from the illegal use of my money, is my money' means, of course, that deconstruction of such illegal financial transactions, as is now taking place given the proliferation of forensic investigations that Wantagate has triggered, leaves the banks at the absolute mercy of the investigators. In the context framed by this report, the illegal false mortgage transactions that the bank perpetrated can be traced back through the bank's books, as can the profits that it made through the bank's illegal use of the funds paid by Fannie Mae to the bank for the purchase of the mortgages.

THE GOVERNMENT-SPONSORED ENTERPRISES CAN RECLAIM THE MONEY 'SCAMMED'
FROM THEM BY THE BANKS: THEY ARE GROSSLY NEGLIGENT IN FAILING TO DO

SO .

Both the principal sum and the illegal profits generated by the bank can theoretically be reclaimed by Fannie Mae and Freddie Mac (which, given the huge gaps in the accounts of these and other Government-Sponsored Enterprises, they urgently need to do), since it was their funds that were obtained by fraud in the first place.

Of course we are now well and truly through the Looking-Glass, because Fannie Mae, Freddie Mac, the Federal Home Loan Bank System and other relevant Government-Sponsored Enterprises (or GSEs) and the banks themselves are all actually 'government agencies' – although the double-minded phrase Government-Sponsored Enterprise itself gives the lie to such obfuscation and the banks are independent organisations as well as being supervised 'government agencies'.

• The GSEs cannot 'operate in the private sector' and at the same time refrain from seeking the remedies due to them when they have been defrauded: and officials in Government who may seek to restrain them from so doing would be acting illegally. In any case, the books still need to be balanced, but that's a problem for Fannie Mae and Freddie Mac; it's not the buyer's problem.

CASE LAW HAS PROTECTED BORROWERS WHO WERE MISLED

US case law already exists in which the banks concerned have been obliged by the courts to pay back all the money paid in by borrowers who were not informed in writing at the outset, that their payments would rise as soon as the Federal Reserve raised interest rates, so that through the banks' failure to disclose, the contracts were shown to have been illegal.

The banks appealed against this outcome, and lost. As a consequence, thousands of home owners had millions in payments and fees returned to them. However the case in question did NOT bring up any of the issues discussed in our analysis.

When loans are extended, the party extending the loan MUST provide FULL DISCLOSURE, or the transaction is illegal. Another thorny problem facing banks is that once a banking corporation has committed an ultra vires action, their charter is required to be suspended and they are obliged to cease all business transactions immediately until reinstated by the State banking authority.

While in this condition, banks may not enter into any contracts, nor may they sue in court. What, then, does this mean for ALL THE BUSINESS that they have conducted SINCE the first ultra vires action was committed?

ALL TRANSACTIONS SINCE THE ULTRA VIRES ACTION MAY BE NULL AND VOID

Does it not mean that all the transactions following the ultra vires action have been null and void? And if so, does that not mean that the trillions generated off the back of funds that are owned by others (e.g. Ambassador Wanta) are all not merely illegally procured, but also that the transactions themselves are null and void? And to complicate matters even further, the insurance companies' contracts contain clauses which state that policies are in effect ONLY so long as corporate banking charters are in effect and/or the corporation is in good standing.

Nor can it be complacently taken for granted any longer by the criminalist classes that American Courts are now so notoriously corrupt, and the Judiciary so irrevocably compromised, that they can be relied upon to sustain the illegal status quo indefinitely.

• Post-Wantagate, everything, by definition, is up in the air: and, as is shown below, an Ohio Federal Court has already insisted that no contacts underlay mortgage transactions associated recently with attempted foreclosures by Deutsche Bank.

All of which reveals how extremely grave is the situation facing banks which (a) have indulged in fraudulent finance operations along the lines described here in respect of mortgages, and (b) the big money-center banks which have illegally exploited, leveraged, hypothecated and otherwise abused funds belonging to Ambassador Lee Wanta, without his authority, thereby, from the moment they started engaging in such activity, undertaking further ultra vires operations which throw all their subsequent transactions into question – EVERY SINGLE SUBSEQUENT TRANSACTION, not just SELECTED TRANSACTIONS.

SO THE RECKLESSNESS OF PAULSON'S BEHAVIOUR CAN NOW BE BETTER UNDERSTOOD

Given these broader considerations, one can now understand rather more clearly why the reckless criminal behaviour of Henry M. Paulson, Jr., working to guidelines corruptly approved by President George W. Bush Jr. and by Vice President Cheney, has had actual and prospectively catastrophic consequences and implications for the entire international banking system (given, for starters, that US banking collapses would plunge the entire world into financial and economic chaos).

And going further, one can understand rather more clearly why Mr Henry M. Paulson's endlessly criminal behaviour in assuming that he and his blackmailed or blackmailable high-level colleagues could 'play with' Ambassador Wanta's funds, represented an act of grossly reckless stupidity – not least given that, had Wanta's funds been remitted in June 2006, when they should have been, the financial sins identified above could and would have been brushed under the huge metaphorical filthy carpet alluded to in an earlier report.

Finally, one can also appreciate why it is that when we describe Henry M. Paulson, Jr., President George W. Bush and his father, Vice President Cheney, the Clintons and other rogue 'dark actors playing games', as financial fraudsters and criminals, and Citibank, Bank of New York Mellon, and other institutions named in these reports, as criminal enterprises, nothing happens – because it's all true. That accounts for why the vituperative antagonism expressed towards the Editor of this service for a year or more after we began these reports, is now more or less confined to fringe compartmentalised operatives and hacks who are isolated by their handlers from reality because their handlers themselves cannot acknowledge, of course, that they lied to them, and that the vat of tawdry lies in which they swim will not be refilled.

In the earlier stages of the multi-year research which led to Wantagate, the Editor encountered parties in the United States whose fear of exposure puzzled him greatly at times. These fears were expressed in terms of concerns about breaches of national security, and were accompanied by threats along the lines of 'you will not testify'. It turns out that this paranoia was related NOT to anything to do with national security, but rather to anxiety that the line of investigation that the Editor was following might lead to the exposure of the financial criminality that has been duly described (actually, only touched upon, so far) in these reports.

OHIO FEDERAL COURT THROWS OUT DEUTSCHE BANK FORECLOSURES

As Appendix A to this analysis, we cite the case publicised last November when the Ohio Federal Court voided foreclosures demanded by Deutsche Bank, ruling that the de facto holders of the property in question 'owe nothing'. This case shows that it is not yet quite accurate to assert, as many aggrieved and severely injured parties do these days (with good reason), that the Rule of Law in the United States has collapsed entirely (and we ourselves need to modify such statements to take account, at least, of the Ohio ruling in question against Deutsche Bank).

The basis for that ruling was as follows.

A borrower signs loan papers when a loan is made. A representative of the bank signs as well, but the ONLY capacity in which the bank's representative signs is so as to certify that the borrower's signature is valid and correct. Put another way, the representative of the bank does NOT append his signature in a mode or manner that creates a contract between the borrower and the bank. The reason that the bank's representative does not sign in order to create a contract is that the bank is aware that it is not giving the borrower ANYTHING AT ALL.

When the borrower signs the documentation, what he or she is doing is creating a new negotiable piece of paper which, provided the bank or another party accepts it as such, can be converted into a LOAN. But it is a loan to the bank, not to the borrower.

The bank's books will show the transaction as a credit, as banks are privileged institutions which enjoy the right to create money by monetising promissory notes. The bank then places the amount that THE BORROWER loaned to them via the loan document into the borrower's account (deposit account), or else issues a certified check or some other payment method from the transaction book entry account. That process creates a debit on the bank's books.

FIDDLING OF BANKS' BOOKS DOES NOT CREATE A CONTRACT

In other words, all of a sudden, the bank's books are balanced, since the bank possesses a credit and a debit that suddenly match. But that process does not create a contract, which is what the court requires to be filed, in order to support any request for foreclosure PROVIDED A CONTRACT IS REQUESTED BY THE PERSON BEING FORECLOSED UPON, WHEN THE FORECLOSURE IS BEING CHALLENGED IN COURT.

The crucial point here is that when the person being foreclosed upon requests the contract when challenging the foreclosure in court, he or she will be able thereby to demonstrate to the court that the bank cannot provide any such document.

In the case cited in Appendix A, Deutsche Bank could not provide the contract because it did not possess a contract (see above). Accordingly, the court properly dismissed the foreclosure process.

So the message to all who are vexed by this fraudulent finance offensive is that no loan can be foreclosed upon without a contract to back it up: and no contract exists in these cases. However it is essential for the foreclosure to be challenged at the hearing and that the contract be requested. This is usually done in America by means of a motion lodged prior to the date of the hearing.

COURTS WILL 'DO THE RIGHT THING' IF THEY HAVE NO CHOICE

The Court will (perhaps surprisingly to some) usually do the right thing if the right documents are placed before it by means of the proper procedure, as it has no choice in the matter. On the other hand, the Court does not have to answer a question that it is not asked to adjudicate upon or to take into consideration. This means that even if the Judge may be aware that no contract exists to back up the foreclosure, UNLESS THE REQUEST FOR THE CONTRACT IS MADE, the foreclosure will be granted. Therefore those concerned must always ensure that a motion challenging the foreclosure and requesting the contract MUST be lodged prior to the hearing.

In the report cited in the Appendix, the author implies, but does not actually state, that the reason the bank did not possess the contract was that the contract had been collectivised as the bank had been a purchaser of some of the packaged subprime derivatives. It can now be seen that these so-called mortgage-backed, collectivised, synthetic derivatives that have been sold around the world which are based on loans, have nothing to back them up and are therefore worthless.

'SUBPRIME' 'SLIDE' = DELIBERATE OBFUSCATION OF FRAUD
The 'subprime crisis' 'slide' is thus a verbal obfuscation designed by semantics experts aligned with US criminal intelligence cadres in order to obfuscate the true enormity of what has been going on for years behind the scenes – namely, that the banks have been ripping off Fannie Mae, Freddie Mac, the Federal Home Loan Bank System. and other Government-Sponsored Enterprises and borrowers alike, and have been enriching themselves illegally at the expense of both.

(At the same time, the GSEs have been corruptly collaborating in this fraudulent activity, recycling what we suspect to be illegally procured cash into the banks, thus plugging huge gaps created by the ongoing illegal transfer of funds offshore and off-balance sheet: see below).

The value of such fraudulent financial transactions runs into multiple trillions of dollars. If the transactions were now to be properly marked on the banks' books, every leading US bank and securities house, and thousands of US savings banks, would collapse in bankruptcy.

THE GSEs ARE OBLIGATED TO SUE THE BANKS TO RECOVER THEIR MONEY
Moreover the General Managements of Fannie Mae and other affected GSEs are grossly negligent on two glaringly obvious counts, to begin with: first, they did not exercise proper due diligence when financing the banks' transactions; and secondly, they have inexplicably failed, given their knowledge of this corruption, to reclaim the funds that were illegally extracted from them by the banks, back onto their books, by every means available to them – which means that these GSEs are themselves co-conspirators with the banks in this fraudulent finance, as well as being negligent in this respect, as well.

Examination of the US Office of Management and Budget's 'Analytical Perspectives' document for Fiscal Year 2007 reveals (on pages 1229-1231) gigantic white spaces in the accounts of the Federal National Mortgage Association, the Federal Home Loan Mortgage Association, and the US Federal Home Loan Bank System. Specifically, crucial basic data for direct loan obligations outstanding, are blank for the years 2005, 2007, and 2007 (estimated).

The reason these tables (1) are blank is that these GSEs have chosen not to reveal that they have been ripped off by the banks, let alone the proportions of the rip-offs. An obfuscatory and deceitful rubric in six-point type states that 'Consistent with Government-wide practice for GSEs, information for 2006 and 2007 was not required to be collected'. As noted, data for 2005 is missing as well. The Editor of this service has studied the US Federal Budget intensively at times since the 1970s, and this 'practice' was, of course, never at all in evidence before the corrupt 'need' to disguise the magnitude of the frauds became acute.

THE BLANK TABLES IN THE OMB'S DATA ON THE GSEs

But of course, by publishing blank tables, the GSEs that have been exploited by the banks and that have therefore de facto been supporting banks that would otherwise clearly not be viable, have publicly revealed that a grave problem exists – without coming clean and explaining what it is.

The Office of Management and Budget's 'Analytical Perspectives' document for Fiscal Year 2008 extends these BLANK data tables into FY 2008, adding the adjusted rubric:

• "Consistent with Government-wide practice for GSEs, information for 2007 and 2008 was not required to be collected'.

The tables for Fannie Mae and Freddie Mac are BLANK not just for FY2007 and FY 2008, but for FY2006 as well. However, all of a sudden, data that were missing in the 2006 column for the Federal Home Loan Bank System displayed in the Office of Management and Budget's FY2007 'Analytical Perspectives' has appeared in the FY 2008 documentation.

It shows actual Federal Home Loan Bank System direct loan obligations of $7,475,995,000,000. Separately, under the heading 'Cumulative balance of direct loans outstanding', transactions that are here labelled 'Advances made to members and mortgage loans purchased from members' of $7,475,995,000,000, are all but 'matched' by 'Principal collected on advances and mortgage loans' amounting $7,453,327,000,000. No explanation is provided as to how this 'reconciliation' suddenly materialised out of thin air. What has accordingly happened is the same as the relevant banks' book-entry 'reconciliation, described above, but in reverse.

Pages 98-100 of the current 'Analytical Perspectives' document shows blank data in a table purportedly displaying the face value of Government-Sponsored Lending for Fiscal Years 2005 and 2006, with the following rubrics:

• "Financial data for Fannie Mae is not presented here because following a restatement of financial data for 2001-2004, audited financial results for 2005 and 2006 have not been released'; and: 'Financial data for Freddie Mac is not presented here because following the release of previous earnings restatements, audited financial statements for 2005 and 2006 have not been released'. These excuses, however, diverge from the explanation for the blank spaces given elsewhere in the Office of Management and Budget's FY2008 documentation which, as noted above, states: 'Consistent with Government-wide practice for GSEs, information for 2007 and 2008 (2006 and 2007) was not required to be collected'.

So, either relevant data 'was not required to be collected', or it couldn't be released because audited financial statements are not available following financial data restatements for earlier years. Which excuse for hiding the truth is it to be?

Clearly, given that the Office of Management and Budget (OMB), which is part of the Office of the President, is concealing these crucial financial data, it is hiding something big: and what is being hidden are the colossal proportions of the fraudulent finance that has been perpetrated, the fact that the GSEs in question have been systematically ripped off by the banks, the fact that the GSEs are collaborating conduits for fraudulent finance, and that the GSEs have negligently allowed this state of affairs to continue for years – and, in the case of the Federal

Home Loan Banks, the fact that the accounts have just been synthetically doctored by means of book entries to create an almost balancing double entry.

WHAT LIES BEHIND THE GSEs' COMPLICITY IN THESE FRAUDS?

An appropriately cynical interpretation must be that the GSEs have been used to enrich the banks.

If we scratch deeper (beyond the scope of this report), we will find that this enrichment process has channelled pipelines of funds and assets into the lined pockets of a financial élite of organised criminal operatives and official fraudsters who, working in cahoots with the corrupt bankers, have been enriching themselves at the expense of US taxpayers, those unfortunates whose properties have been foreclosed upon, and foreign banks and other financial sector 'takers' who have failed to perform adequate (or any) due diligence when assessing whether the packaged, collectivised, synthetic derivatives 'products' are backed by real assets, or whether – as is the case – they are worthless. The GSEs in question have also been acting as pipelines of fraudulently procured funds to keep the banks and securities houses afloat, using inter alia funds stolen and generated from those belonging to Ambassador Wanta as sole principal, thus bringing the banks progressively under the de facto control of a small (Fascist) élite of master criminal operatives.

It was to draw a thick veil over this ghastly, criminal state of affairs, that the international and US domestic financial and intelligence communities needed to procure a means of refinancing the banks so that these aberrations would never catch up with the banking and intelligence and political community perpetrators, would never surface into the public domain, and so that the banks and agencies such as the US GSEs, could be refinanced without the banks having to be bailed out, or entities such as the GSEs having to be bailed out with printed money themselves.

THE GLOBAL REFINANCING SOLUTION – DESIGNED BY WANTA

The solution, designed by Ambassador Lee Emil Wanta, the financial engineering genius who orchestrated the Financial Warfare operation against the Soviet Union in accordance with President Reagan's direct instructions, was and remains The Wanta Plan.

Under this scheme, which should have started up in June 2006 when Wanta should have taken economic receipt of his $4.5 trillion agreed-upon compromise Settlement, the high-yield financial trading techniques that have been applied illegally to exploit Wanta's funds to generate untaxed fiat funds off-balance sheet, would be applied ON-BALANCE SHEET, with every dime taxed and paid onto the Treasury's books.

This scheme was approved by the Group of Eight financial powers, the world's leading central banks, the International Monetary Fund, the World Bank and finally, by the compromised and cooperating banks and securities houses themselves, once it was realised that no other solution was available – which has remained the case throughout. Even though all these generic parties have, to a greater or a lesser extent, participated in the serial financial criminality that has led the whole world to the brink of financial catastrophe as described here, each group knows that an actual collapse would be disastrous and contrary to its own fundamental interests.

THE STANDARD DOUBLE-MINDED APPROACH ON VIEW

In other words, we can now observe, deconstructed before our own eyes, a living example of the principle of double-mindedness that holds sway in these circles. On the one hand, the prospective and unravelling catastrophe has been brought about (as was predicted in these reports and in our printed intelligence publications) by the perverse financial criminality of the parties listed; while on the other hand, the cited parties are almost all united in their urgent insistence that The Wanta Plan be implemented, without further dangerous and damaging delay, in order to avert the prospective spectacle, for which they themselves are responsible, of banks and securities houses collapsing around the world, and the world financial economy being cast into the abyss.

Which highlights, once again, the extreme folly of Henry M. Paulson, Jr., the US Treasury Secretary, on behalf both of himself, and of President Bush, Vice President Cheney, Godfather Bush, their Clinton criminal associates, and those elements of the corrupted US intelligence community that decided to 'play with' Ambassador Wanta's compromise $4.5 trillion Settlement funds.

We repeat:

Had the Settlement been implemented in June 2006, the impact of The Wanta Plan would have been such that the gross financial sins of the past could have been covered up (however fundamentally unsatisfactory that would have been: but of course, that would not have been Ambassador Wanta's problem). But Messrs Paulson, Bush Jr., Cheney et al, decided instead that they would continue corrupt 'business as usual'. That is how arrogant, blind and stupid they were

WHAT THE ARCH-CRIMINALISTS IGNORED
Moreover, they failed to take account of the following three straightforward factors:

1. The faith and determination of Ambassador Lee Emil Wanta, strengthened in the furnace of a decade and a half of suffering in the horrible US GULAG and thereafter, giving rise to his certainty that his refusal to go along with the corruption would ultimately be vindicated.

2. The unequalled securities market expertise of Michael C. Cottrell, M.S., and his refusal to be compromised by these people, despite their numerous attempts to do so.

3. The global power of these Wantagate reports to break through the controlled inertia of the so-called 'mainstream' media*, which has been fatally compromised in the United States by Operation Mockingbird (a long-running CIA programme to muzzle and control the media) and its aftermath, and by a parallel surreptitious and subversive operation to muzzle and control the media in the United Kingdom., mainly by means lethal injections of 'political correctness' and the infection of narrow-mindedness and mind-control disseminated inter alia via the vacuous 'Common Purpose' programme (see the second posting in the Archive).

* The latest issue of The Economist, which ought to have been leading this story all along, has suddenly referred to the reported desire on the part of European parties for high-level arrests to take place in the United States. No doubt this publication has been compelled by 'the unfolding of events' (to cite a phrase often used by Lenin) to read these reports. If it hasn't yet got round to this, it should perhaps consider doing so straight away.

SO NOW THEY HAVE THE WORST OF ALL POSSIBLE OUTCOMES
So what these fools have wound up with, from their perspective, is the very worst of all possible worlds. Their assets and illegal accounts have been frozen. The power they have abused has been, or is being, decisively thwarted. They face having to pay immense amounts of tax, with

accumulated interest and penalties, followed by a requirement to account for all their 'sources of funds', which they cannot do, on pain of spending the rest of their lives in jail. Some are now marked down as war criminals – following the precedent set when Donald Rumsfeld had to flee France in October, with the assistance of the cowed American Embassy, when it became clear that he was in danger of being arrested for war crimes.

Meanwhile thousands of bankers have been arrested and have disappeared. Senior US officials have been arrested and/or 'dealt with' (in an operation that was ongoing as this report was being finalised). The most exposed American (and some British) banks have moved to the very edge of collapse, with the Securities and Exchange Commission reported in December to have threatened Citibank itself with closure. Detailed published investigations of the financial frauds have begun (with this analysis), threatening to impose irresistible pressure on the banks – since, for instance, victims of the real estate mortgage scams go to the courts, contest foreclosures and demand presentation of the underlying contracts by the banks.

• And the, endless, inordinate criminal delays in completing the Wanta Settlement have paralleled an associated degradation of global economic financial and economic conditions which, by the end of 2007, was threatening to run irretrievably out of control.

NORTHERN ROCK A CORRUPT DUMP FOR THE CRIME SYNDICATE
In the United Kingdom, the collapse of Northern Rock, in the first high street banking collapse to have occurred in Great Britain for 150 years, was accompanied by the machine politician's worst nightmare – press pictures of customers lining the streets to pull their savings from the bank: and it was a direct consequence of the type of mortgage frauds described in this report.

The bank's assets consisted inordinately of packaged, collectivised mortgage-backed, synthetic derivatives composed of 'assets' that were worthless and dumped on Northern Rock by associates of the Bush-Clinton crime syndicate because, thanks to Wantagate, it had become apparent within the financial community that no underlying property contracts ever existed. With its balance sheet skewed, the bank relied excessively on the interbank market for funds, which dried up as the crisis of confidence arising from Henry M. Paulson's deliberate hijacking of the Wanta Settlement, spread throughout the banking community. And the Bank of England picked up the tab – sending shivers down the spines of central bankers facing similar problems elsewhere (Japan, for instance).

PAULSON'S MADE SUCH A MESS OF IT THAT NO-ONE WANTS HIS JOB
Just before Christmas, knowledgeable sources were informing the Editor of this service that one reason that the high-level crook Paulson was still in place was that literally nobody could be found to replace him – reflecting the dog's dinner that he has made of his corrupt stewardship and the incalculable damage that he has inflicted upon the degraded reputation of the United States and its finances because of his and his colleagues' unprincipled greed and folly.

So it can be understood why we have described this crisis, all along, as millennial – shorthand for the worst financial corruption crisis, and the most despicably stupid display of strutting, power-mad financial arrogance, ever recorded.

APPENDIX A:

Deutsche Bank Foreclosures tossed out of Ohio United States District Court:

"They owe nothing": Thursday, 15 November 2007.

Judge Christopher A. Boyko of the Eastern Ohio United States District Court, on October 31, 2007, dismissed 14 Deutsche Bank-filed foreclosures in a ruling based on lack of standing for not owning/holding the mortgage loan at the time the lawsuits were filed.

Judge Bokyo issued an order requiring the Plaintiffs in a number of pending foreclosure cases to file a copy of the executed Assignment demonstrating [that] Plaintiff (Deutsche Bank) was the holder and owner of the Note and Mortgage as of the date the Complaint was filed, or the Court would enter a dismissal.

The Court's amended General Order No. 2006-16 requires Plaintiff (Deutsche Bank) to submit an Affidavit along with the complaint, which identifies Plaintiff as the original mortgage holder, or as an assignee, trustee, or successor-interest.

Apparently Deutsche Bank submitted several Affidavits that claim that Deutsche Bank was in fact the owner of the mortgage Note, but none of these Affidavits mention assignment or trust or successor-interest.

Thus, the Judge ruled that in every instance, these submissions create a "conflict" and they "do not satisfy" the burden of demonstrating at the time of filing the complaint, that Deutsche Bank was in fact the "legal" Note holder.

While the decision is great for homeowners in distress (due to providing a new escape hatch out of foreclosure), it is a blow to the cause of sorting out the high-finance side of the mortgage mess.

Jacksonville Area Legal Aid Attorney, April Charney, made these comments in regard to the Ohio Federal Court Ruling:

'This Court Order is what I have been saying in my cases. This is rampant fraud on every Court in America, or nonjudicial foreclosure fraud where the securitized trusts are filing foreclosures when they never own/hold the mortgage loan at the commencement of the foreclosure'.

'That means that the loans are clearly in default at the time of any eventual transfer of the ownership of the mortgage loans to the trusts. This means that the loans are being held by the originating lenders after the alleged 'sale' to the trust, despite what it says per the pooling and servicing agreements and despite what the securities laws require'.

This means that many securitized trusts don't really, legally, own these bad loans'.

'In my cases, many of the trusts try to argue equitable assignment that predates the filing of the foreclosure, but a securitized trust cannot take an equitable assignment of a mortgage loan. It also means that the securitized trusts own nothing'.

'So, with this decision, it appears confirmed that investors in the mortgage débacle may in fact own nothing – not even the bad loans that they funded. It seems that their right to the cash flow from the underlying properties does not extend to ownership of the properties themselves, thus clouding the recovery picture considerably'.

April Charney further remarked:

'This opinion, once circulated and adopted by State and Federal Courts across the country, will stop the progress of foreclosures, at first in judicial foreclosure states, across America, dead in their tracks'.

APPENDIX B: Summary of the Law of Voids in the United States:

What follows is a brief summary giving details of how to stop a foreclosure or else to get one's house back after it has been taken through the invalid Court process.

Before a Court (Judge) can proceed juridically, jurisdiction must be complete – consisting of two opposing parties (not their Attorneys: although Attorneys can enter an appearance on behalf of a party, only the parties can testify, and until the Plaintiff testifies, the Court has no basis upon which to rule juridically). The two halves of subject matter jurisdiction equate to the statutory or common law authority that the action is brought under (the theory of indemnity) and the sworn testimony of a competent fact witness concerning the injury suffered (= the cause of action). If a jurisdictional failing appears on the face of the record, the matter is void, subject to vacation with damages, and can never be time-barred. So a question that naturally occurs is:

'If I successfully vacate a void judgment, can they just come back and try the case again?'

The answer to this is that a new suit must be filed, and that this can only be done within the time period allocated by the Statute of Limitations. Lack of jurisdiction cannot be corrected by an order nunc pro tunc. The only proper office of a nunc pro tunc court order is to correct a mistake in the records: it cannot be used to rewrite history (2). The number of probable void judgments on the books in America's Courthouses is so great that there is no practical means of estimating how many there are.

IF EVERY VOID JUDGMENT WERE TO BE VACATED WITH DAMAGES, THE CONSEQUENCE WOULD REPRESENT THE GREATEST SHIFT IN MATERIAL WEALTH IN WORLD HISTORY

How does this apply to the mortgage scams identified in this report? Here is the relevant equation:

Plaintiff with no contract in hand

= No Standing

= No jurisdiction

= No foreclosure action.

Therefore, the real issue in respect of void judgments is SUBJECT MATTER JURISDICTION.

Void judgments are judgments rendered by a Court that lacked jurisdiction, either of the subject matter or the parties (3).

• The basic reality is that subject matter jurisdiction can never be presumed, can never be waived, and cannot be constructed, even by mutual consent of the parties.

• Subject matter jurisdiction consists of two parts: the relevant statutory or common law authority for the Court to hear the case; and the appearance and testimony of a competent fact witness: in other words, sufficiency of pleadings

EPILOGUE

Ms April Carney and others stress that this Ohio decision has seriously adverse implications as they put it, for the prospects of any amicable financial workout for various investor communities holding mortgage-backed securities. This is because doubt is cast upon where the full write-downs will eventually land. The resulting uncertainty was expected, therefore, to harm the market values of so-called mortgage-backed securities and of mortgage-backed securities-based synthetic securities, which were already in chaos due to rising underlying delinquencies.

Investors in such securities allowed themselves to be misled into assuming, wrongly, that they actually owned some 'real estate' through holding these assets. At the same time, the wholesale marketing of such synthetic 'assets' by, for instance, the GSEs Fannie Mae and Freddie Mac, represented fraudulent transactions. These issues are addressed in the preceding analysis.

[Note: Government-Sponsored Enterprises are entities established by the federal Government but which 'operate in the private sector'. These off-off-budget US Federal Government hybrids' offer magnificent opportunities for officially-condoned fraudulent off-budget financial transactions, as has been shown to be the case].

It is probably now too late for compromised Judges to attempt purposefully to misinterpret (a.k.a. to reinterpret) some of the canons and specifics, so as to protect the false debt owners.

A financial sector and trading expert consulted for this analysis states that 15 or more years ago, he warned that the new customised derivative contracts that were backed by mere electronic debits and credits represented a grave prospective danger that could take the financial world down with them unless they were transparent, standardised, and backed by a well-capitalised clearing house similar to the commodity exchanges that have existed for a century and a half, or more. These fears have turned out to be prophetic and accurate.

Nor is it any coincidence that this hazardous financial sector activity 'took off' almost immediately that the criminal cadres had got their hands on Ambassador Wanta's accumulated $27.5 trillion of financial assets held in his wholly owned corporate accounts, after he had been illegally 'taken down' in Lausanne, Switzerland, on 7th July 1993 (see, for instance, the 'Wisconsingate' report on www.worldreports.org dated 6th August 2007: Archive).

For these fraudulent transactions leveraged dud assets that were marketed by the Government-Sponsored Enterprises in collaboration with the corrupt US official financial fraudsters and their intelligence community and banking/securities sector co-conspirators, as one component of a vast infrastructure of fraudulent financial recycling mechanisms designed primarily, at the outset, to obfuscate the stealing and diversion of Ambassador Wanta's funds.

Notes and References:

(1) International Currency Review, World Reports Limited [see this website] Volume 31, Numbers 3 & 4, Fourth Quarter 2006, pages 178-179; and International Currency Review, Volume 33, Numbers 1 and 2, September 2007, pages 383 and 285.

(2) E.g. Transamerica Insurance Co. v. South, 975 F. 2d 321, 325-326 (7th Circuit 1992); United States v. Daniels, 902 F. 2d 1238, 1240 (7th Circuit 1990); King v, Ionization International, Inc., 825 F. 2d 1180, 1188 (7th Circuit 1987); and: Central Laborer's Pension and Annuity Funds v. Griffee, 198 F. 3d 642, 644 (7th Circuit 1999).

(3) Wahl v. Round Valley Bank 38 Ariz. 411, 300 P. 955 (1931); Tube City Mining & Milling Co. v. Otterson, 16 Ariz. 305, 146p 203 (1914); and Millken v. Meyer, 311 U.S. 457, 61 S. CT. 339, 85 L. Ed. 2d 278 (1940).

• Editor's Note: We are still, from time to time, receiving emails from frustrated people seeking documentation to 'back up' what we publish in these reports. Such correspondents choose to overlook the well-known fact that we have published several huge issues of International Currency Review which contain hundreds of pages of facsimiles of relevant documents. Since we are a commercial operation, we cannot make these volumes available free of charge.

• However copies are available in many university and other libraries around the world, and of course they can be ordered via this website at any time. But the main point here is that complaints along these lines reveal lack of knowledge of the background, which is that an immense volume of relevant documents has been published, while these reports are approved where necessary and appropriate either by the Principals or by Michael C. Cottrell, M.S., before being posted.

In the case of this presentation, the Editor conveyed a copy of the report for Mr Cottrell's attention as a courtesy and at the same time to ensure that what has now been published here does not 'cut across' matters of an intensified nature that are currently in hand.

LEGAL SECTION:
PLEASE READ THIS INFORMATION, AS IT INDICATES THE DEPTH OF THE DEPRAVITY THAT WANTAGATE HAS EXPOSED. REPETITION OF THIS BASIC DATA IS STILL NECESSARY...

• We now repeat, yet again, our familiar summary of the Statutes, securities regulations and fraud information that we have appended to these reports for many months. The reason we append this information is to remind everyone of their clear responsibilities under the US Misprision of Felony legislation, and of course to provide a legal basis for these reports.

LEGAL RECAPITULATION FROM REPORT DATED 30TH AUGUST 2007:

Reiteration of the fraudulent transactions involving Bank of New York Mellon – a bank so arrogant and conspicuously indifferent both to its tarnished reputation and to its grotesque breaches of US law and of N.A.S.D./S.E.C. Regulations, that it now takes first prize in the crowded competition for the title of 'Most arrogant and corrupt financial institution in America'. At least, this was the case until the perpetration of the 'Saturday scam' described above and on 13th November:

Step 1: Fraud in the Inducement: "... is intended to and which does cause one to execute an instrument, or make an agreement... The misrepresentation involved does not mislead one as the paper he signs but rather misleads as to the true facts of a situation, and the false impression it causes is a basis of a decision to sign or render a judgment" Source: Steven H. Gifis, 'Law Dictionary', 5th Edition, Happauge: Barron's Educational Series, Inc., 2003, s.v.: 'Fraud'.

Step 2: Fraud in Fact by Deceit (Obfuscation and Denial) and Theft:

• "ACTUAL FRAUD. Deceit. Concealing something or making a false representation with an evil intent [scanter] when it causes injury to another...". Source: Steven H. Gifis, 'Law Dictionary', 5th Edition, Happauge: Barron's Educational Series, Inc., 2003, s.v.: 'Fraud'.

• "THE TORT OF FRAUDULENT DECEIT... The elements of actionable deceit are: A false representation of a material fact made with knowledge of its falsity, or recklessly, or without reasonable grounds for believing its truth, and with intent to induce reliance thereon, on which plaintiff justifiably relies on his injury...". Source: Steven H. Gifis, 'Law Dictionary', 5th Edition, Happauge: Barron's Educational Series, Inc., 2003, s.v.: 'Deceit'.

Step 3: Theft by Deception and Fraudulent Conveyance:

THEFT BY DECEPTION:

• "FRAUDULENT CONCEALMENT... The hiding or suppression of a material fact or circumstance which the party is legally or morally bound to disclose...".

• "The test of whether failure to disclose material facts constitutes fraud is the existence of a duty, legal or equitable, arising from the relation of the parties: failure to disclose a material fact with intent to mislead or defraud under such circumstances being equivalent to an actual 'fraudulent concealment'...".

• To suspend running of limitations, it means the employment of artifice, planned to prevent inquiry or escape investigation and mislead or hinder acquirement of information disclosing a right of action, and acts relied on must be of an affirmative character and fraudulent...".

Source: Black, Henry Campbell, M.A., Black's Law Dictionary', Revised 4th Edition, St Paul: West Publishing Company, 1968, s.v. 'Fraudulent Concealment'.

FRAUDULENT CONVEYANCE:

• 'FRAUDULENT CONVEYANCE... A conveyance or transfer of property, the object of which is to defraud a creditor, or hinder or delay him, or to put such property beyond his reach...".

• "Conveyance made with intent to avoid some duty or debt due by or incumbent on person (entity) making transfer…".

Source: Black, Henry Campbell, M.A., 'Black's Law Dictionary, Revised 4th Edition, St Paul: West Publishing Company, 1968, s.v. 'Fraudulent Conveyance'.

SECURITIES REGULATIONS OF WHICH BANK OF NEW YORK MELLON IS IN BREACH AND OF WHICH THE SIX 'LEVY BANKS' MAY LIKEWISE BE VARIOUSLY IN BREACH [CREDIT SUISSE, UBS, DEUTSCHE BANK, BANK OF AMERICA, CITIBANK, THE BANK OF ENGLAND]:

• NASD Rule 3120, et al.
• NASD Rule 2330, et al
• NASD Conduct Rules 2110 and 3040
• NASD Conduct Rules 2110 and IM-2110-1
• NASD Conduct Rules 2110 and SEC Rule 15c3-1
• NASD Conduct Rules 2110 and 3110
• SEC Rules 17a-3 and 17a-4
• NASD Conduct Rules 2110 and Procedural Rule 8210
• NASD Conduct Rules 2110 and 2330 and IM-2330
• NASD Conduct Rules 2110 and IM-2110-5
• NASD Systems and Programme Rules 6950 through 6957

In addition to which Bank of New York Mellon is in violation of:
• 97-13 Bank Secrecy Act, Recordkeeping Rule for funds transfers and transmittals of funds, et al.

LAWS BREACHED BY CRIMINAL OPERATIVES WHO HAVE HIJACKED AMBASSADOR SIR LEO WANTA'S $4.5 TRILLION SETTLEMENT AGREED AT THE HIGHEST U.S. LEVELS IN BAD FAITH IN MAY 2006, AND HAVE CONTINUED THEIR SERIAL CRIMES EVER SINCE:

• Annunzio-Wylie Anti-Money Laundering Act
• Anti-Drug Abuse Act
• Applicable international money laundering restrictions
• Bank Secrecy Act
• Conspiracy to commit and cover up murder.
• Crimes, General Provisions, Accessory After the Fact [Title 18, USC]
• Currency and Foreign Transactions Reporting Act
• Economic Espionage Act
• Hobbs Act
• Imparting or Conveying False Information [Title 18, USC]
• Maloney Act
• Misprision of Felony [Title 18, USC] (1)
• Money-Laundering Control Act
• Money-Laundering Suppression Act
• Organized Crime Control Act of 1970
• Perpetration of repeated egregious felonies by State and Federal public employees and their Departments and agencies, which are co-responsible with the said employees for ONGOING

illegal and criminal actions, to sustain fraudulent operations and crimes in order to cover up criminal activities and High Crimes and Misdemeanours by present and former holders of high office under the United States

- Provisions pertaining to private business transactions being protected under both private and criminal penalties [H.R. 3723]
- Provisions prohibiting the bribing of foreign officials [F.I.S.A.]
- Racketeer Influenced and Corrupt Organizations Act [R.I.C.O.]
- Securities Act 1933
- Securities Act 1934
- Terrorism Prevention Act
- Treason legislation, especially in time of war

This list shows to what extent the Bush II Administration condones one Rule of Law for the Rest of Us, and absolute contempt for domestic and international law for the officials and bankers who are illegally diverting and exploiting Wanta's funds.

The Directors and others listed in Part 1 of the Wantagate Listing of Institution Directors and others posted on 11th June may likewise be Accessories to the Fact of, and/or co-conspirators in, wittingly or unwittingly, the egregious violation of the laws itemised above. This list is reproduced in International Currency Review, Volume 33, #s 1 & 2, September 2007, on pages 163-168.

U.S. CODE, TITLE 18, PART 1, CHAPTER 1, SECTION 4: MISPRISION OF FELONY:

'Whoever, having knowledge of the actual commission of a felony cognizable by a court of the United States, conceals and does not as soon as possible make known the same to some Judge or other person in civil or military authority under the United States, shall be fined under this title or imprisoned not more than three years, or both'.

Wicked Pedia Update dated 2nd December 2007:

WIKIPEDIA IS PART OF AN NSA DISCREDITING OPERATION
As previously reported, the Editor's attention was drawn, in the second half of November 2007, to a pack of old lies, diversionary claptrap and disinformation posted on Wikipedia under 'Leo Wanta'.

Although this posting appeared FOR THE FIRST TIME on 12th November 2007, it consisted almost entirely of ancient lies, including disinformation dredged out of 'Thieves' World', a hatchet job published in 1994 by Simon and Schuster by the late Claire Sterling, a CIA operative.

Mrs Sterling died suddenly after being summoned for her second meeting with the Federal Bureau of Investigation, under Clinton.

ANCIENT DISCREDITED LIES POSTED IN NOVEMBER 2007
The fact that the OLD Wikipedia lies appeared for the first time as late as 12th November 2007, and consisted almost totally of old, discredited lies, omitting the Master Lie that the CIA retailed after the Ambassador had been taken down, namely that he was DEAD, indicated quite

clearly to the Editor and his advisers that this latest evil display of regurgitated disinformation represented a deliberate operation by the US intelligence community's disinformation and lie machine, to begin, all over again, the process of discrediting Ambassador Leo Wanta – so that they can relieve him of his funds by some false pretext or other after a 'gag order' has been signed.

The definitive up-to-date information on the Ambassador's affairs has been published on this website, and in several issues of International Currency Review, Economic Intelligence Review, Soviet Analyst and Arab-Asian Affairs, all published by World Reports Limited, for several years. Copies of these publications are in official, institutional and library hands all over the world. Therefore, any posting about Ambassador Wanta that relies upon ancient lies and fails to take account of the accurate information that we have published, can easily be demonstrated to represent yet another US intelligence community and NSA discrediting operation.

PRELUDE TO 'SETTING UP' WANTA ALL OVER AGAIN

We now understand that the Principals have been advised (for the past several weeks) that they will not be allowed to reveal that they have been paid. This loony state of affairs is designed to 'set them up' for a future discrediting operation whereby false witness will be deployed against them to the effect that they have stolen the money, or some such pack of lies, which they will be unable to refute because they will be bound by the 'prerequisite' gag order that is intended. Its purpose, of course, is to 'legitimise' the old and new lies that the US disinformation apparat will be preparing for future use. The likelihood is that the new discrediting operation will be extended to Michael C. Cottrell, M.S., as well. We are prepared for this intended onslaught.

EDITOR'S TRUE REPORT REPEATEDLY REPLACED BY OLD LIES

On 19th November, the Editor posted on Wikipedia the accurate text about Leo Wanta that is now reproduced below. The Editor's accurate text was then removed by Wikipedia, leaving the 'old lies' that had existed previously. When the Editor became aware of this, he reposted the accurate text below, and, given that his own copy had been deleted, he then deleted the pack of lies, leaving his own accurate text up on the Wikipedia site instead, without the lies.

On 2nd December, the Editor was advised by a monitor that the Editor's accurate text had been removed and that the old discrediting lies had been reposted on the page by Wikipedia. When the Editor checked, he found that the page could no longer be edited because of what the site managers described as 'vandalism'.

IT'S 'VANDALISM' TO POST THE TRUTH, NOT 'VANDALISM' TO POST LIES

It was not 'vandalism' to delete the truth and to replace the truth by old lies, but it was 'vandalism' to delete 'old lies' and replace them by the truth.

We are therefore able to conclude from this Wicked Pedia outrage, as follows:

1. Wikipedia, which purports to 'change the world', prefers lies to the truth.

2. Wikipedia is therefore, by definition, a source of disinformation and lies, and cannot be trusted as a source of reliable information in any context.

3. The only category of sick society that would have any interest in disseminating lies about Ambassador Wanta, the United States' greatest living patriot, rather than the truth, is the mentally disturbed US counterintelligence disinformation apparat (a.k.a. the US STUPIDITY

COMMUNITY) which, by its actions in deleting the Editor's ACCURATE information and replacing it with old lies, and by its illegal behaviour in 'snipping' our website texts as stated above, thereby reveals the desperation of its concerns, which all have to do with covering up official criminality.

4. It is now far too late for the US stupidity community to repair the damage that it has done since June 2006, when the Ambassador's funds were first hijacked by the criminal financial operative Henry M. Paulson, US Treasury Secretary. So it is laying the groundwork for a renewed discrediting operation against Ambassador Wanta and his colleagues.

• We and others will see to it that this intention is defeated, and that such nefarious scheming is exposed for the amoral and disgusting Luciferian behaviour that it represents.

The ACCURATE text that the Editor posted on the Wikipedia site, follows. (The Editor, after all, PAID FOR AMBASSADOR WANTA'S EXIT FROM PROBATION, FOR GOODNESS SAKE, SO HE CAN HARDLY BE A SOURCE OF DISINFORMATION, CAN HE?). This information will be very widely distributed by other means, in order to provide all concerned with the necessary 'heads-up' as to what these US Dark Forces have in mind. They are out of their minds and in Satan's mind:

The disinformation about Leo Wanta (Lee Wanta) below was first posted on 12th November 2007. It contains ancient CIA disinformation and long since exposed lies going back to the early 1990s, and obfuscates the truth. The report appended immediately below was added on 19th November 2007, to correct the disinformation contained in the original stub.

It was subsequently removed and is hereby replaced. This sequence of events, which suggests that egregious lies are preferred to the truth, has been recorded on www.worldreports.org, which contains all the updated and breaking Wanta material, that was ignored and traduced in the stub at the foot of this report.

THE ACCURATE TEXT THAT WIKIPEDIA REPEATEDLY DELETED
This is the correct information that we posted on 19th November 2007:

The 'information' posted below represents a deliberately malevolent, false disinformation picture which has no bearing on reality. It is a travesty of the truth of the matter and cites Christopher Story as the author of some of the disinformation, which is libellous and implies that Story, the veteran
Editor of International Currency Review of nearly 40 years' standing, is engaged in the egregious dissemination of lies, which is not the case.

This is such an egregiously malevolent stub of disinformation that readers should prudently dismiss it altogether; they should start afresh by accessing Christopher Story's website, which is: www.worldreports.org., reading from the Archive.

www.worldreports.org is the authoritative source for all updated information on Ambassador Lee Emil Wanta. The source 'Thieves' World' was a CIA disinformation work prepared by the late CIA disinformation operative Claire Sterling, published in 1994.

This stub regurgitates ancient lies perpetrated by the CIA, which lied for many years that Lee

(Leo being his intelligence community name) Wanta was dead. The CIA proclaimed that he was dead so that corrupt cadres could ransack his funds (see below).

He 'ceased to be dead' with effect from 21st July 2005 after Christopher Story, a British private citizen, had paid $35,000 from his scarce private funds pro bono publico by way of 'restitution' to an American lawyer for onward payment to the Wisconsin State Department of Corrections, to procure Mr Wanta's release from his illegal probation.

Despite his Ambassadorial status, Wanta had been illegally 'taken down' in Switzerland on 7th July 1993 without a warrant on a trumped-up Wisconsin State charge of having failed to pay $14,129 in falsely assessed Wisconsin State fabricated tax that he never owed because he had been resident in Vienna on US Presidential intelligence work since June 1988.

This data is all in the public domain, has been published for several years in International Currency Review, the Journal of the World Financial Community, and can be read on Mr Story's website.

International Currency Review is a banking and financial journal with a worldwide circulation: ISSN 0020-6490. It is published by World Reports Limited, London.

Notwithstanding that this fabricated tax demand (orchestrated by US criminal intelligence) had been paid twice under protest by Lee Emil Wanta from abroad (in May and June 1992), the funds were improperly allocated by the Wisconsin State Department of Revenue and were never credited to the false account maintained by them for the Ambassador. (Christopher Story holds documentary
proof of both payments). They were paid a third time by Christopher Story in June 2005, which action duly procured Mr Wanta's release from illegal probation effective 14th November 2005.

As a consequence of Wanta thus ceasing to be dead, the CIA's lie that he was dead collapsed in chaos, and all the subsidiary old false witness lies that the CIA had perpetrated, including those assembled for disinformation purposes in the stub below (which, in line with the standard false witness used throughout by detractors, attempts to portray Christopher Story as a source of disinformation) were discredited as well.

Why was Wanta taken down? So that the criminal intelligence cadres running the US Government could ransack the $27.5 trillion of funds assembled by Leo Wanta on President Reagan's orders, in the course of his Financial Warfare operations against the USSR.

Under Reagan's Executive Order 12333 of 1981, US intelligence officers were permitted to establish corporations which could thereafter contract with the CIA/DIA/DEA/NSA et al for the purpose of fulfilling allotted intelligence tasks allocated to them.

The financial proceeds of operations conducted by such corporations were consequently the property of the corporations and thus of their shareholders, a legal fact of life which has never been, and cannot be, disputed. This was not a good idea because almost all US intelligence operatives are liars and do not function on the basis of the Rule of Law at all, if they can help it.

Lee Wanta is the well-known patriotic exception to this rule: he operates solely in accordance with US law, in contrast to the behaviour of other US operatives, which is why the kakocracy* needed to remove him from the scene, as duly occurred July 1993.

Once Wanta had been illegally arrested (contrary to international law, as a diplomat) and then thrown into a stinking Swiss jail on 7th July 1993, the criminal cadres inside the US official structures immediately ransacked Mr Wanta's bank accounts according to plan.

The history of this matter is, and has been, elaborated in great depth on Christopher Story's website www.worldreports.org. and has been extensively published, as mentioned, in International Currency Review and other World Reports Limited intelligence publications.

Students are advised perhaps to begin with the 'Wisconsingate' report dated 6th August 2007, which forensically dissects, with detailed documentary back-up, the Wisconsin Department of Revenue's tax fabrication operation against Wanta, stretching back for over 20 years, that has been exposed by Christopher Story in minute detail, and which formed the fabricated basis for Wanta's illegal takedown in 1993, despite the fact that Wisconsin has no jurisdiction beyond its borders.

The overall Wantagate crisis, which is the sole and continuing underlying cause of the prevailing global financial and economic day of reckoning that the world is now facing, has been triggered by the fact that the George W. Bush Jr. White House, aided and abetted by other senior office-holders, hijacked the compromise financial settlement of $4.5 trillion that the White House itself agreed (in a classified accord that was finalised in May 2006) should be paid over to Ambassador Wanta, so that the stolen and diverted remaining $23 trillion of his funds (and the many hundreds of trillions of dollars hypothecated upon them) could be released from a de facto lien arising from the collapse of the CIA's lie that Wanta was dead.

For clearly, since he had ceased to be dead, 100% of these funds (plus the hundreds of trillions of fiat 'funny' money generated by illegal leveraged operations from that base) belonged to Lee Wanta and to no-one else: a situation that the banks 'could not handle'.

The entire narrative of what has become the worst financial corruption crisis in world history (which this stub consisting of disinformation attempts to obfuscate) is set out in great detail on Christopher Story's website www.worldreports.org., to which all readers are directed in order for the accurate state of affairs to be understood. As indicated, this stub below is a travesty and a disgrace, as it regurgitates long since discredited CIA lies, presents a diversionary, distorted and misleading picture, and because it malevolently incorporates Christopher Story as a source for some of this disinformation.

It is a disgusting instance of ignorant and malevolent US counterintelligence disinformation and deceit at its very worst.

All the statements in the above commentary may be verified by reference to www.worldreports.org and International Currency Review. Another publication covering this matter in detail is Economic Intelligence Review, also published by World Reports Limited, London. Wanta students should access the Archive on the www.worldreports.org Home Page.

A book devoted to Ambassador Wanta and the Wantagate crisis is in preparation

The Wanta disinformation referred to above has been deleted from this page. ENDS.

DIPLOMATIC STATUS OF THE PRINCIPALS

The Ambassador and his colleagues now have special diplomatic status (conferred upon them by HM The Queen in 2007), which means that the Ambassador is now an Ambassador several times over. This factor greatly complicates the intended discrediting offensive that the mad US stupidity community's Dark Forces contemplate, their sole objective being of course to cover up their own criminality, in line with pending 'thought crime' legislation which has the same Nazi-style objective.

*Note: 'Kakocracy': Governance by a clique representing the worst elements of society, in their interests and to the exclusion of all other interests, from the Greek, kakos, meaning foul, or filthy.

Ambassador Leo Emil Wanta: Diplomatic Passport Numbers 04362 & 12535 a.k.a. Frank B. Ingram [FBI] (Sector V) SA32NV; and a.k.a. Rick Reynolds, SA233MS. AmeriTrust Groupe, Inc: Federal EIN Number 20-3866855; Virginia State Corporation Identification Number: 0617454-4; Virginia State Department of Taxation Identification Number: 30203866855F001.

• Please be advised that the Editor of International Currency Review cannot enter into email correspondence related to this or to any of the earlier Wantagate reports.

We are a private intelligence publishing house and have no connections to any outside parties including intelligence agencies. The word 'intelligence' on this website and in all our marketing material is used for marketing/sales purposes only and has no other connotations whatsoever: see 'About Us' on the red panels under the Notes on the Editor, Christopher Story FRSA, who has been solely and exclusively engaged as an investigative journalist, Editor, Author and private financial and current affairs Publisher since 1963 and is not and never has been an agent for a foreign power, suggestions to the contrary being actionable for libel in the English Court.

EXHIBIT B

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

IN RE FORECLOSURE CASES	)	CASE NO. NO.1:07CV2282
	)	07CV2532
	)	07CV2560
	)	07CV2602
	)	07CV2631
	)	07CV2638
	)	07CV2681
	)	07CV2695
	)	07CV2920
	)	07CV2930
	)	07CV2949
	)	07CV2950
	)	07CV3000
	)	07CV3029
	)	
	)	JUDGE CHRISTOPHER A. BOYKO
	)	
	)	
	)	
	)	OPINION AND ORDER
	)	
	)	

CHRISTOPHER A. BOYKO, J.:

On October 10, 2007, this Court issued an Order requiring Plaintiff-Lenders in a number of pending foreclosure cases to file a copy of the executed Assignment demonstrating Plaintiff was the holder and owner of the Note and Mortgage ***as of the date the Complaint was filed***, or the Court would enter a dismissal. After considering the submissions, along with all the documents filed of record, the Court dismisses the captioned cases without prejudice. The Court has reached today's determination after a thorough review of all the relevant law and the briefs and arguments recently presented by the parties, including oral

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

arguments heard on Plaintiff Deutsche Bank's Motion for Reconsideration. The decision, therefore, is applicable from this date forward, and shall not have retroactive effect.

LAW AND ANALYSIS

A party seeking to bring a case into federal court on grounds of diversity carries the burden of establishing diversity jurisdiction. *Coyne v. American Tobacco Company*, 183 F. 3d 488 (6th Cir. 1999). Further, the plaintiff "bears the burden of demonstrating standing and must plead its components with specificity." *Coyne*, 183 F. 3d at 494; *Valley Forge Christian College v. Americans United for Separation of Church & State, Inc.*, 454 U.S. 464 (1982). The minimum constitutional requirements for standing are: proof of injury in fact, causation, and redressability. *Valley Forge*, 454 U.S. at 472. In addition, "the plaintiff must be a proper proponent, and the action a proper vehicle, to vindicate the rights asserted." *Coyne*, 183 F. 3d at 494 (quoting *Pestrak v. Ohio Elections Comm'n*, 926 F. 2d 573, 576 (6th Cir. 1991)). To satisfy the requirements of Article III of the United States Constitution, the plaintiff must show he has ***personally suffered some actual injury*** as a result of the illegal conduct of the defendant. (Emphasis added). *Coyne*, 183 F. 3d at 494; *Valley Forge*, 454 U.S. at 472.

In each of the above-captioned Complaints, the named Plaintiff alleges it is the holder and owner of the Note and Mortgage. However, the attached Note and Mortgage identify the mortgagee and promisee as the original lending institution — one other than the named Plaintiff. Further, the Preliminary Judicial Report attached as an exhibit to the Complaint makes no reference to the named Plaintiff in the recorded chain of title/interest. The Court's Amended General Order No. 2006-16 requires Plaintiff to submit an affidavit along with the Complaint, which identifies Plaintiff either as the original mortgage holder, or as an assignee, trustee or successor-in-interest. Once again, the affidavits submitted in all these cases recite the averment that Plaintiff is the owner of the Note and Mortgage, without any mention of an assignment or trust or successor interest. Consequently, the very filings and submissions of the Plaintiff create a conflict. In every instance, then, Plaintiff has not satisfied its burden of demonstrating standing at the time of the filing of the Complaint.

Understandably, the Court requested clarification by requiring each Plaintiff to submit a copy of the Assignment of the Note and Mortgage, executed as of the date of the Foreclosure Complaint. In the above-captioned cases, ***none*** of the Assignments show the named Plaintiff to be the owner of the rights, title and interest under the Mortgage at issue as of the date of the Foreclosure Complaint. The Assignments, in every instance, express a present intent to convey all rights, title and interest in the Mortgage and the accompanying Note to the Plaintiff named in the caption of the Foreclosure Complaint upon receipt of sufficient consideration on the date the Assignment was signed and notarized. Further, the Assignment documents are all prepared by counsel for the named Plaintiffs. These proffered documents belie Plaintiffs' assertion they own the Note and Mortgage by means of a purchase which pre-dated the Complaint by days, months or years.

Plaintiff-Lenders shall take note, furthermore, that prior to the issuance of its October 10, 2007 Order, the Court considered the principles of "real party in interest," and examined Fed. R. Civ. P. 17 — "Parties Plaintiff and Defendant; Capacity" and its associated Commentary. The Rule is not *apropos* to the situation raised by these Foreclosure Complaints. The Rule's Commentary offers this explanation: "The provision should not be misunderstood or distorted. It is intended to prevent forfeiture when determination of the proper party to sue is difficult or when an understandable mistake has been made. ... It is, in cases of this sort, intended to insure against forfeiture and injustice ..." Plaintiff-Lenders do not allege mistake or that a party cannot be identified. Nor will Plaintiff-Lenders suffer forfeiture or injustice by the dismissal of these defective complaints otherwise than on the merits.

Moreover, this Court is obligated to carefully scrutinize all filings and pleadings in foreclosure actions, since the unique nature of real property requires contracts and transactions concerning real property to be in writing. R.C. § 1335.04. Ohio law holds that when a mortgage is assigned, moreover, the assignment is subject to the recording requirements of R.C. § 5301.25. *Creager v. Anderson* (1934), 16 Ohio Law Abs. 400 (interpreting the former statute, G.C. § 8543). "Thus, with regards to real property, before an entity assigned an interest in that property would be entitled to receive a distribution from the sale of the property, their interest therein must have been recorded in accordance with Ohio law." *In re Ochmanek*, 266 B.R. 114, 120 (Bkrtcy.N.D. Ohio 2000) (citing *Pinney v. Merchants' National Bank of Defiance*, 71 Ohio St. 173, 177 (1904).[1]

This Court acknowledges the right of banks, holding valid mortgages, to receive timely payments. And, if they do not receive timely payments, banks have the right to properly file actions on the defaulted notes — seeking foreclosure on the property securing the notes. Yet, this Court possesses the independent obligations to preserve the judicial integrity of the federal court and to jealously guard federal jurisdiction. Neither the fluidity of the secondary mortgage market, nor monetary or economic considerations of the parties, nor the convenience of the litigants supersede those obligations.

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[1] Astoundingly, counsel at oral argument stated that his client, the purchaser from the original mortgagee, acquired complete legal and equitable interest in land when money changed hands, even before the purchase agreement, let alone a proper assignment, made its way into his client's possession.

Despite Plaintiffs' counsel's belief that "there appears to be some level of disagreement and/or misunderstanding amongst professionals, borrowers, attorneys and members of the judiciary," the Court does not require instruction and is not operating under any misapprehension. The "real party in interest" rule, to which the Plaintiff-Lenders continually refer in their responses or motions, is clearly comprehended by the Court and is not intended to assist banks in avoiding traditional federal diversity requirements.[2] Unlike Ohio State law and procedure, as Plaintiffs perceive it, the federal judicial system need not, and will not, be "forgiving in this regard."[3]

2

Plaintiff's reliance on Ohio's "real party in interest rule" (ORCP 17) and on any Ohio case citations is misplaced. Although Ohio law guides federal courts on substantive issues, state procedural law cannot be used to explain, modify or contradict a federal rule of procedure, which purpose is clearly spelled out in the Commentary. "In federal diversity actions, state law governs substantive issues and federal law governs procedural issues." *Erie R.R. Co. v. Tompkins*, 304 U.S. 63 (1938); *Legg v. Chopra*, 286 F. 3d 286, 289 (6th Cir. 2002); *Gafford v. General Electric Company*, 997 F. 2d 150, 165-6 (6th Cir. 1993).

3

Plaintiff's, "Judge, you just don't understand how things work," argument reveals a condescending mindset and quasi-monopolistic system where financial institutions have traditionally controlled, and still control, the foreclosure process. Typically, the homeowner who finds himself/herself in financial straits, fails to make the required mortgage payments and faces a foreclosure suit, is not interested in testing state or federal jurisdictional requirements, either *pro se* or through counsel. Their focus is either, "how do I save my home," or "if I have to give it up, I'll simply leave and find somewhere else to live."

In the meantime, the financial institutions or successors/assignees rush to foreclose, obtain a default judgment and then sit on the deed, avoiding responsibility for maintaining the property while reaping the financial benefits of interest running on a judgment. The financial institutions know the law charges the one with title (still the homeowner) with maintaining the property.

There is no doubt every decision made by a financial institution in the foreclosure process is driven by money. And the legal work which flows from winning the financial institution's favor is highly lucrative. There is nothing improper or wrong with financial institutions or law firms making a profit — to the contrary, they should be rewarded for sound business and legal practices. However, unchallenged by underfinanced opponents, the institutions worry less about jurisdictional requirements and more about maximizing returns. Unlike the focus of financial institutions, the federal courts must act as gatekeepers, assuring that only those who meet diversity and standing requirements are allowed to pass through. Counsel for the institutions are not without legal argument to support their position, but their arguments fall woefully short of justifying their premature filings, and utterly fail to satisfy their standing

CONCLUSION

For all the foregoing reasons, the above-captioned Foreclosure Complaints are dismissed without prejudice.

IT IS SO ORDERED.

DATE: October 31, 2007

S/Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

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and jurisdictional burdens. The institutions seem to adopt the attitude that since they have been doing this for so long, unchallenged, this practice equates with legal compliance. Finally put to the test, their weak legal arguments compel the Court to stop them at the gate.

The Court will illustrate in simple terms its decision: "Fluidity of the market" — "X" dollars, "contractual arrangements between institutions and counsel" — "X" dollars, "purchasing mortgages in bulk and securitizing" — "X" dollars, "rush to file, slow to record after judgment" — "X" dollars, "the jurisdictional integrity of United States District Court" — "Priceless."

Exhibit A

IN THE CHANCERY COURT OF RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

NISAR MOHAMMADI, PLAINTIFF

VS.

KONICA-RENEE MOORE, DEFENDANT

CASE NO. ~~322749~~ 22CV-510

NOTICE OF MOTION FOR TEMPORARY RESTRAINING ORDER EX PARTE PURSUANT TO TENNESSEE CODE 36-6-605

23 March 2022

NOTICE OF MOTION FOR TEMPORARY RESTRAINING ORDER EX PARTE

I Konica-Renee: Family of Moore being duly sworn under oath depose and state the following ss:

1. Konica-Renee:Moore has a hearing on March 25, 2022 in the Court of General Sessions, a non-record court regarding the Notice of Eviction and vacating the subsequent void judgment. Notice is hereby given that on March 23rd 2022 or as soon thereafter as this Motion may be heard the de facto Defendant Konica Moore will move this Court of record for a Temporary Restraining Order Ex Parte and an Affidavit in Support Thereof entered on March 02, 2022; the grounds for this Motion are;

2. Konica-Renee:Moore and her two children who are minors have no plain, speedy or adequate remedy at law, and can suffer irreparable injury and harm from homelessness and need an immediate Ex Parte Temporary Restraining Order. See Eviction Notice attached as Exhibit A: Restraining Order as Grounds for Restraining Order Ex Parte.

Memorandum of Points and Authorities in Support of Ex Parte Motion and TRO.

Tennessee Code 36-3-605 – Ex Parte Protection Order — Hearing — Extension

Terms Used In Tennessee Code 36-3-605

Abuse: means inflicting, or attempting to inflict, physical injury on an adult or minor by other than accidental means, placing an adult or minor in fear of physical harm, physical restraint, malicious damage to the personal property of the abused party, including inflicting, or attempting to inflict, physical injury on any animal owned, possessed, leased, kept, or held by an adult or minor, or placing an adult or minor in fear of physical harm to any animal owned, possessed, leased, kept, or held by the adult or minor. See Tennessee Code 36-3-601

The federal Fair Housing Act makes it illegal for a landlord to discriminate against a tenant based on race, religion, gender, national origin, familial status (including children under the age of 18 and pregnant women), and disability. In addition, Tennessee has enacted the Tennessee Human

Rights Act which adds creed as another protected class. If a landlord tries to evict a tenant based on any of these characteristics, the tenant can use the discrimination as a defense to the eviction.

3. Primary Mortgage Residential Inc. was not THE LENDER OF RECORD Or the Owner OF THE ACCOUNT FROM WHICH FUNDS WERE TRANSFERRED AT CLOSING UNDER FBAR OF FINCEN or the real party of interest under Tennessee Rules of Civil Procedure Rules 17.01, 17.02.

4. That this is evidenced on the public and administrative record of the U.S. DEPARTMENT OF TREASURY under FINCEN do to failure of Primary Mortgage Residential Inc. to file FINCEN FORM 114a ELECTRONICALLY to IDENTIFY themselves as the owner of the account From which Funds Were transferred at closing on June 16, 2016 for loan # 300172919 in violation of
31 CFR § 1010.420 Records to be made and retained by persons having financial interests in foreign financial accounts.

5. This COURTS ENTRY OF JUDGEMENT ENTERED ON MARCH 02, 2022 IS VIOLATING THE PROVISIONS OF NESARA/GESARA AND FOREGIVENESS OF ALL MORTGAGE DEBTS, WHICH TAKES EFFECT ON MARCH 15th 2022 and UNDER Leviticus 25:52 verses 52-55. Book of the 50 Year Jubilee, Forgiveness of All Indebtedness.

The Book of Leviticus (19:34, New King James Version) says that strangers to one's land should be met with kindness and support: "The stranger who dwells among you shall be to you as one born among you, and you shall love him as yourself." I am not suggesting that my faith, or anyone's, should dictate our laws.

6. There is Evidence on the Court and Administrative Record that The STATE OF TENNESSEE, Rutherford County Court of General Sessions (Judge), The Plaintiff and Primary Mortgage Residential Inc. are actively pursuing and participating in the TENNESSEE SLAYER LAW AND RULE UNDER Title 31 - Descent and Distribution

Like most states, Tennessee has a slayer statute that prevents a person who intentionally caused the death of a victim from inheriting personal or real property from the victim's estate. Codified at Tenn. Code Ann. § 31–1–106, the statute also prevents the killer from recovering life insurance proceeds from the victim from inheriting personal or real property from the victim's estate. filed at Tenn. Code Ann. § 31–1–106, the statute also prevents the killer from recovering life insurance proceeds from the victim, even if the killer was a named beneficiary under the policy. The statute is based on the principle that "a wrongdoer will not be allowed to benefit from his crime." Under Tennessee case law, a criminal conviction of firstdegree murder will allow a third-party to use the slayer statute in civil court to prevent the killer from receiving property or money from the victim. However, even in the absence of a criminal conviction, a person will not be able to recover from the victim if it is shown by a "preponderance of evidence" that he or she caused the victim's death. The preponderance of evidence standard is the evidentiary standard used in civil court, and it is

easier to meet than the "beyond a reasonable doubt" evidentiary standard used in criminal court. The differences between the two standards are important. A party challenging the killer's right to a recovery of life insurance proceeds can successfully invoke the slayer statute in civil court, even if the killer was found not guilty of murder in criminal court. The slayer statute applies not only to someone who kills, but also, to someone who conspires to kill, or hires someone else to kill. It does not apply to acts of self-defense. For example, if a battered wife kills her husband in self-defense, the slayer statute will not prevent her from recovering proceeds from his life insurance policy. The slayer statute also does not apply to accidental killings, even if the person who caused the death is at fault. The Supreme Court of Tennessee dealt with this issue in Moore v. State Farm Life Ins. Co (1994).

In that case, the victim was killed after her husband lost control of the vehicle. The husband was intoxicated at the time and pled guilty to vehicular homicide. The guardian of the victim's minor children sued the life insurance company and the victim's husband seeking to recover proceeds from the victim's life insurance policy which had been paid to the husband as the primary beneficiary under policy. The lower court held that the husband forfeited his right to the insurance proceeds under the slayer statute. The Court of Appeals later affirmed.

2020 Tennessee Code Title 68 - Health, Safety and Environmental
Protection Chapter 3 - Vital Records Act of 1977 Part 3 - Births
§ 68-3-301. Registration Generally — Attestation to Accuracy of Data
Universal Citation: TN Code § 68-3-301 (2020)

a. A certificate of birth for each live birth that occurs in this state shall be filed with the office of vital records, or as otherwise directed by the state registrar, within ten (10) days after the birth and shall be registered if it has been completed and filed in accordance with §§ 68-3-301 — 68-3-306.

b. Either parent of the child or any other knowledgeable informant shall attest to the accuracy of the personal data provided in sufficient time to permit the filing of a certificate within the ten (10) days prescribed by §§ 68-3-301 — 683-306.

Respectfully Submitted by Special Deposit:
Dated this 23rd day of March, 2022

By: Moore, Konica-Renee

Moore, Konica-Renee, dba KONICA MOORE
c/o 925 Maricopa Drive
Murfreesboro, Tennessee a Republic near [37128]
(501) 517- 3392

EXHIBIT A

Rutherford County Sheriff's Office

MICHAEL S. FITZHUGH
SHERIFF

FINAL NOTICE

EVICTION ORDER

OCCUPANT(S) Renee Moore DATE: 3/22/2022

ADDRESS 925 Maricopa Drive CASE# 322749

The Sheriff's Office has received a Court Order (Writ of Possession), to evict all persons from this property. You MUST vacate the premises immediately in order to avoid having your personal property removed from the dwelling and set to the street. PLEASE MOVE NOW!!! A Sheriff's Deputy may show up at any time with a crew to enforce the Court Order.

RUTHERFORD COUNTY
SHERIFF'S OFFICE
MICHAEL MOODY
WARRANTS DIVISON

940 NEW SALEM HIGHWAY
MURFREESBORO, TN 37129

OFFICE:615-904-3026
CELL: 615-289-8711

MMOODY@RCSOTN.ORG

EXHIBIT B

No. M2015-01055-COA-R3-CV
COURT OF APPEALS OF TENNESSEE AT NASHVILLE

Eledge v. Eledge

Decided May 26, 2016

No. M2015-01055-COA-R3-CV

05-26-2016

HORACE PAUL ELEDGE v. JERRY PAUL ELEDGE

Mark T. Freeman, Nashville, Tennessee, for the appellant, Jerry Paul Eledge. Robert D. Massey, Pulaski, Tennessee, for the appellee, Horace Paul Eledge.

FRANK G. CLEMENT, JR., JUDGE

Appeal from the Chancery Court for Lawrence County
No. 13-16267
Stella L. Hargrove, Judge This is an action by Father to rescind a quitclaim deed on the ground the deed was procured by Son's fraud or constructive fraud. Father, believing his property might be subject to the claims of creditors, sought advice from Son on how to preserve his real property for the benefit of his two children and grandchildren. Son engaged an attorney to prepare a quitclaim deed reserving a life estate for Father and conveying the remainder interest in the property to Father's two children, Son and Daughter. Father executed the deed without reading it. Two years later, after realizing he only held a life estate, Father asked both children to re-convey the property. Daughter complied, but when Son refused, Father commenced this action against Son. Following a bench trial, the court held that rescission of the deed was warranted because the deed was procured by Son's fraud or constructive fraud given that "[Father] was under the domination and control of his son at the time the deed was signed." Fraud can be established by proof of nondisclosure or concealment of a known material fact in situations where a party has a duty to disclose that fact. *Justice v. Anderson County*, 955 S.W.2d 613, 616 (Tenn. Ct. App. 1997). Similarly, constructive fraud is a breach of a legal or equitable duty which is deemed fraudulent because of its tendency to deceive others by, *inter alia*, violating a private confidence. *Kincaid v. SouthTrust Bank*, 221 S.W.3d 32, 39 (Tenn. Ct. App. 2006). The general rule is that a party to a transaction has no duty to disclose material facts to the other. *Homestead Grp., LLC v. Bank of Tenn.*, 307 S.W.3d 746, 751-52 (Tenn. Ct. App. 2009). However, such a duty may arise when there is a confidential relationship between the parties. *Benton v. Snyder*, 825 S.W.2d 409, 414 (Tenn. 1992). "The normal relationship between a mentally competent parent and an adult child is not per se a confidential relationship." *Kelly v. Allen*, 558 S.W.2d 845, 848 (Tenn. 1977). In certain circumstances, however, a duty may arise out of a "family relationship" when there is proof of "dominion and control" sufficient to establish the existence of a confidential relationship. *See Matlock v. Simpson*, 902 S.W.2d 384, 385-86 (Tenn. 1995). We have determined that the evidence preponderates against the finding that Father was under the dominion and control of Son. The facts of this case reveal that Father was in good physical and mental health, lived separately
2 from Son, and was not dependent on Son or *2 anyone else for his daily needs. Although Father trusted Son completely, relied on Son for financial advice, and could be persuaded by Son's ardent opinions, Son did not have control over Father or

Father's finances. To the contrary, Father described situations in which he independently conducted business and made his own decisions, some of which were contrary to Son's wishes. Having determined that the evidence preponderates against the finding that Father was under the domination and control of Son at the time the deed was signed, we find no basis upon which to conclude that Son owed an affirmative duty to disclose all material facts relevant to the transaction. Because Son did not owe an affirmative duty to disclose all material facts relevant to the transaction, Father's claim that Son procured the deed by fraud or constructive fraud cannot be sustained. Accordingly, we reverse the judgment of the trial court.

Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Reversed

FRANK G. CLEMENT, JR., P.J., M.S., delivered the opinion of the Court, in which, ARNOLD B. GOLDIN and KENNY W. ARMSTRONG, JJ., joined. Mark T. Freeman, Nashville, Tennessee, for the appellant, Jerry Paul Eledge. Robert D. Massey, Pulaski, Tennessee, for the appellee, Horace Paul Eledge.

OPINION

After an extended illness, Doris Eledge passed away on January 20, 2002, leaving her husband, Horace Paul Eledge ("Father"), as the sole owner of real property located in Lawrence County, Tennessee. Due to his wife's medical expenses, Father became concerned that his creditors would take his land and leave nothing for his children or grandchildren's inheritance. To remedy these concerns, Father sought help from his son, Jerry Paul Eledge ("Son"), who often advised Father on financial and business matters. Thereafter, Son engaged an attorney to draft a quitclaim deed to reserve a life estate in the property for Father and convey the remainder interest in fee simple to Son and Susanne Ballard ("Daughter"). Son presented the deed to Father, who signed it on July 13, 2006, in the presence of a notary public. The deed was duly recorded soon thereafter.

In September 2008, Father, who was preparing to get married, retained an attorney to draft an antenuptial agreement. According to Father, it was during his meeting with the attorney that Father learned he no longer had full ownership of the subject realty. Thereafter, Father requested that his children convey their respective remainder interests back to him. Daughter complied with this request. Son did not.

On April 9, 2013, Father commenced this action against Son in the Chancery Court of Lawrence County seeking to rescind the quitclaim deed. Father alleged, *inter alia*, that the deed was "procured by the fraud, force or duress of [Son]."

3 The complaint *3 also alleged that Son caused the quitclaim deed to be prepared and that neither Son nor anyone else explained to Father that he would "not be able to freely dispose or alienate the land he conveyed." Son filed an answer in which he denied that his interest in the property was obtained by fraud, force, or duress; however, Son's answer did not assert any affirmative defenses.

A bench trial was held on February 24, 2015. During opening statements, counsel for Son made an oral motion to dismiss the complaint, arguing that: (1) Father's claim was barred by the three year statute of limitations for torts involving property pursuant to Tenn. Code Ann. § 28-3-105; and (2) Father failed to plead fraud with sufficient particularity as required by Tenn. R. Civ. P. 9.02. The trial court reserved judgment on the motions and proceeded with the trial, hearing testimony from Father, Son, and Daughter, among others.

Father testified that he often asked Son for financial advice and that Son assisted Father with business finances and handled a 401k account for Father. Father stated that when it came to financial advice, it was "[Son's] way or the highway," and recalled an incident when Son refused a request to withdraw $11,000 from Father's retirement account so that Father could build an addition to his home. Father testified that he asked Son for advice on how to protect the land from being sold in whole or in part to pay creditors because he "always trusted him."

However, Father testified that when he asked for Son's advice, his goal was simply to keep the government and creditors from getting his property after he died. Father stated that he "didn't know what a quitclaim deed was" and would not have signed the deed had he known that it affected his ownership interest in the property. Father stated that no one explained to him what would happen once the quitclaim deed was signed and that he did not read the quitclaim deed before signing it because he trusted Son. Father also testified that no one forced him to sign the deed.

Daughter testified that she deeded her interest in the property back to Father upon his request because she "didn't want to be part of anything that tricked [Father] into doing something that he didn't intend to do." She also stated that she never discussed the plan with Father or the attorney that prepared the deed and stated that she "trusted [Son] to take care of it all." Daughter further testified that Father, Son, and Daughter, never discussed the implications of the quitclaim deed prior to its execution and that it became clear to her that Father never discussed the implications of the deed with anyone.

Son testified that Father is a very "trusting, believing person," and that Father "listened to [his] advice," "relied on" him, and "respected and trusted" him. Son also stated that he explained the terms of the deed to Father and had Father repeat them back to him; however, Son could not recall whether he informed Father that the quitclaim deed would limit Father's ability to transfer the
4 property. Son also testified that Father, Son, *4 and Daughter, met and went over the decision together prior to executing the deed. Son stated that the notary, Father, Son, and Son's wife were present when the deed was signed, but he did not remember anything about the execution of the deed and could not recall who paid the attorney to prepare the deed.

At the conclusion of trial, Father made an oral motion to conform the pleadings to the proof, asserting that rescission of the quitclaim deed was warranted based on the confidential relationship between Father and Son. It is unclear whether the court granted or denied the motion because the court did not make an express ruling, it merely stated that it would consider the evidence.

With regard to Son's motion to dismiss, which was made in his opening statement, the court stated the statute of limitations defense was waived because Son neither filed a pre-trial motion to dismiss nor raised the statute of limitations defense prior to trial as required by Rule 8.03 of the Tennessee Rules of Civil Procedure. The court also found that because all parties agreed at the hearing that the action accrued on September 5, 2008, which is less than six years before the filing of the complaint, Father's action was timely in accordance with the six-year statute of limitations applicable to contract disputes, Tenn. Code Ann. § 47-2-725, and alternatively, the six-year statute of limitations for the use and occupation of land. *See* Tenn. Code Ann. § 28-3-109(a)(1).

The court also found that the complaint contained sufficient particularity because it explained the basis for the claims of fraud against Son and "specifically identifies the time and place of each alleged false representation, and identifies the manner in which each representation was fraudulent."

With regard to Son's motion to dismiss based on the lack of specificity in the complaint, the court ruled the defense was waived as it was not asserted in his answer or made by motion in writing prior to trial as required by Rule 12.02(6).[1]

[1] Although Son's motion did not explicitly state that it was a Rule 12.02(6) motion to dismiss for failure to state a claim upon which relief may be granted, the trial court

correctly interpreted it as such. *See PNC Multifamily Capital Inst. Fund XXVI Ltd. P'ship. v. Bluff City Cmty. Dev. Corp.*, 387 S.W.3d 525, 537 ("[A] Tennessee Rule of Civil Procedure 12.02(6) motion to dismiss a complaint for failure to state a claim upon which relief can be granted tests the legal sufficiency of the complaint.").

By an order entered May 13, 2015, the trial court held that rescission of the quitclaim deed was warranted because the deed was procured through fraud or constructive fraud and ordered Son to re-convey his interest in the property to Father. The final order reads in pertinent part:

> The Court finds that at no time did [Father] intend to give up ownership rights in his farm. The Court also finds that the legal significance of the quit

5 *5

> claim deed was never explained to [Father], and [Father] did not understand that by signing the quit claim deed he was relinquishing his rights to his real estate. Despite being told by [the attorney] to explain fully the legal repercussions of the quitclaim to his father, [Son] did not do so.
>
> In an action for fraudulent misrepresentation, a plaintiff must allow 1) that the defendant made a representation of fact, 2) that the representation was false, 3) that the representation related to a material issue, 4) that the representation was made knowingly, recklessly, or without belief in its truth, 5) that the plaintiff acted reasonably in relying on the representation, and 6) that the plaintiff suffered damages as a result of that misrepresentation. *Metro Govt. of Nashville and Davidson County v. McKinney*, 852 S.W.2d 233, 237 (Tenn. Ct. App. 1992); *Graham v. First American National Bank*, 594 S.W.2d 723, 725 (Tenn. App. 1979) (citing *Edwards v. Travelers Ins. Co.*, 563 F.2d 105, 110-114 (6th Cir. 1977)).
>
> In an action for fraud, the plaintiff must show 1) an intentional misrepresentation of a material fact, 2) knowledge of the representative's falsity, 3) an injury caused by the reasonable reliance on the misrepresentation, and 4) the misrepresentation involves a past or existing fact. Nondisclosure will give rise to a claim for fraud when the defendant has a duty to disclose and when the matters not disclosed are material. *Dobbs v. Guenther*, 846 S.W.[2d] 270, 274 (Tenn. Ct. App. 1992).
>
> Constructive frauds are acts, statements, or omissions, which operate as virtual frauds on individuals, are not clearly resolvable as accident or mistake, and yet may be

unconnected with a selfish design. *Maxwell v. Land Developers*, 485 S.W.2d 869 (Tenn. Ct. App. 1980).

[Father] was justified and reasonable in making the decision to sign the deed, based on the assurances given him by his son that the document would accomplish his goal of protecting his land from creditors and preserving his estate for his children. [Son] had directed his attorney to create the quitclaim and benefitted financially as a result of its execution. He was fully aware that this deed would do much more than what his father wished. He knew that it would divest [Father] of everything but a life estate in the property on which he had lived and worked since 1967. [Son's] silence on this regard is the equivalent of a conscious omission, which the Court finds relevant in its judgment.

The Court finds that the relationship between [the parties] went beyond that of father/son and/or being based on trust and love. It was "[Son's] way or the highway," and [Father] was afraid his son would "yell at him" for

6 *6

wanting his land back. When it came to financial matters, [Father] was under the domination and control of his son at the time the deed was signed. [Son's] control over his father's finances was such that [Father] had difficulty withdrawing funds from his own Ameritrade account. The relationship between [Father] and [Son] at the time was such that [Son] had both a legal and an equitable duty to explain fully and adequately to his father the legal significance of the deed, just as [the attorney] had directed.

The Court finds that [Father] was injured by the actions of his son. The injury was a result of his justifiable and reasonable reliance on [Son] to find a way to keep his estate intact. The document he signed did not accomplish the goal with which he had entrusted his son and financial advisor. The Court follows the law as well as the facts and finds, through a preponderance of the evidence, that the deed in this case was procured through fraud or constructive fraud, either of which justifies the Court's decision to return to [Father] the remaining one-half (1/2) interest in the property currently held by his son.

Son initiated this appeal and raises the following issues: (1) whether the trial court erred by denying Son's motion to dismiss the case based on the statute of limitations defense; (2) whether the trial court erred by denying Son's motion to dismiss the case on the grounds that Father failed to assert the fraud allegations with sufficient particularity; (3) whether the trial court erred in allowing Father to amend his pleadings to conform to the evidence presented at trial; (4) whether the trial court erred in finding that Father was under the domination and control of Son; and (5) whether the trial court erred when it found Son liable for fraud and constructive fraud.

ANALYSIS

I. STATUTE OF LIMITATIONS DEFENSE

Son contends the trial court erred by failing to dismiss the complaint as time barred. We find no error with the trial court's decision.

The statute of limitations defense was first mentioned at the end of Son's opening statement. It was raised in the following manner:

> So the simple -- the simplest way to resolve this case, Your Honor, is to dismiss it for two reasons. One, they failed to state with any particularity, even up to now, what the fraud is. And, second, the statute of limitations has run. And I didn't realize that he was aware of this until I took his deposition when he specifically said, "I knew of it when I did the prenup." So if that's the basis of the case, we're I think the ultimate outcome here

7 *7

> is that it will be dismissed for failure to meet the statute of limitations requirement, Your Honor. Thank you.

Rule 8.03 of the Tennessee Rules of Civil Procedure states that an affirmative defense, including the statute of limitations defense, shall be set forth in "a pleading to a preceding pleading." Failure to plead an affirmative defense generally results in a waiver of the defense. *Pratcher v. Methodist Healthcare Memphis Hosps.*, 407 S.W.3d 727, 735 (Tenn. 2013) (citing Tenn. R. Civ. P. 12.08). Moreover, a statute of limitations defense is waived if not pleaded within the proper time or in the proper manner. *Steed Realty v. Oveisi*, 823 S.W.2d 195, 197 (Tenn. Ct. App. 1991).

An affirmative defense generally must be asserted in one's answer to the complaint. *See* Lawrence A. Pivnick, *Tennessee Circuit Court Practice*, § 12.4 (2012); *see also* Donald. F. Paine, *The Need to Plead Affirmative Defenses*, 45 Tenn. B.J. 33, 33 (Sept. 2009) ("Affirmative defenses are speed traps. Plead them or pay the penalty."). This general rule, however, is not rigid and inflexible because trial judges have wide latitude to allow a defendant to amend its answer before trial. *Pratcher*, 407 S.W.3d 735-36 (citing *Biscan v. Brown*, 160 S.W.3d 462, 471 (Tenn. 2005) ("The rules relating to amendment of pleadings are liberal, vesting broad discretion in the trial court.")).

In this case, Son did not raise the statute of limitations as a defense in his answer to Father's complaint as required by Tenn. R. Civ. P. 8.03. Moreover, Son did not file a pre-trial motion to dismiss based on the statute of limitations. It was not until the morning of trial that Son attempted to assert the statute of limitations defense by making an oral motion. The trial court denied the motion as untimely. As noted earlier, the trial court had broad discretion to grant or deny Son's belated oral motion to assert the statute of limitations defense. *See Biscan*, 160 S.W.3d at 471; *Richardson v. Richardson*, 969 S.W.2d 931, 935 (Tenn. Ct. App. 1997). Therefore, we affirm the trial court's decision to deny the belated motion.

II. AVERMENTS OF FRAUD IN THE COMPLAINT

Son contends the trial court erred by refusing to dismiss the complaint on the ground that Father failed to plead fraud with sufficient particularity.

Two rules of civil procedure are germane to this issue, Tenn. R. Civ. P. 9.02 and Tenn. R. Civ. P. 12.02. Rule 9.02 requires that, "[i]n all averments of fraud . . . , the circumstances constituting fraud . . . shall be stated with particularity." "The particularity requirement means that any averments sounding in fraud (and the circumstances constituting that fraud) must 'relat[e] to or designat[e] one thing singled out among many.'" *Diggs v. Lasalle Nat. Bank Ass'n*, 387 S.W.3d 559, 565 (Tenn. Ct. App. 2012) (quoting *The New Lexicon Webster's Dictionary of the English Language* 954 (1993)). "In other words, particularity in pleadings requires

8 singularity—of or pertaining to a *8 single or specific person, thing, group, class, occasion, etc., rather than to others or all." *Id.*

Rule 12.02 of the Tennessee Rules of Civil Procedure states how and when a defense to a claim shall be presented to the court. "Every defense, in law or fact, to a claim for relief in any pleading, . . . shall be asserted in the responsive pleading thereto if one is required," except certain enumerated defenses may, at the option of the pleader, be made by motion in writing. Tenn. R. Civ. P. 12.02. One of the defenses that may be made by motion is "failure to state a claim upon which relief can be granted." *Id.* The rule goes on to provide that "[a] motion making any of these defenses *shall be made before pleading* if a further pleading is permitted." *Id.* (emphasis added).

In this case, Son did not file a motion to dismiss the claim of fraud before filing his answer to the complaint. In fact, Son never filed a motion to dismiss the claim of fraud. Moreover, Son did not challenge the sufficiency of the averments of fraud in his answer. The first time this defense was mentioned was during Son's opening statement. Specifically, Son stated during his opening statement that the claim of fraud should be dismissed for failing to plead specific facts of
9 fraud.[2] The trial court took Son's motion under advisement and, at the conclusion of the trial, ruled that the complaint pled fraud with sufficient particularity. In its ruling, the trial court identified the following paragraphs of Father's complaint as sufficient to state a claim of fraud:

> 8. On or about July 13, 2006, defendant, [Son], caused the Quitclaim Deed which is the subject of this cause of action to be prepared by an attorney in Franklin, Tennessee. Said deed states,
>
>> The purpose of this Quitclaim Deed is to create in the properties conveyed a life estate in [Father] with the remainder to two herein named children, an equal undivided shares per stirpes, their heirs and assigns forever.
>
> 9. [Father] alleges that neither [Son] nor anyone else explained to him that he would not be able to freely dispose or alienate the land conveyed in the aforementioned Quitclaim Deed. [Father] requested both [Son and Daughter] to convey their respective remainder interest back to [Father] so that he might have full control of his real property. [Daughter] has complied with [Father's] request, however, defendant, [Son], has failed and refused to comply with [Father's] request.
>
> *9
>
> 10. Plaintiff, [Father], alleges that the aforementioned Quitclaim Deed was procured by the fraud, force, or duress of [Son] and fails for lack of consideration.

After considering the relevant legal principles and reviewing Father's complaint, we agree that the allegations in the complaint were sufficient to plead fraud. Although fraud must be pled with particularity, the Advisory Commission Comments to Rule 9.02 explain that, "The requirement in Rule 9.02 . . . is not intended to require lengthy recital of detail. Rather, the Rule means only that general allegations of fraud and mistake are insufficient; the pleader is required to particularize, but by the 'short and plain' statement required Rule 8.01." Tenn. R. Civ. P. 9.02; *see also*

[2] Son did not even make an oral motion to dismiss during the trial, he merely stated or suggested during his opening statement that the claim of fraud should be dismissed for lack of specificity.

Harvey v. Ford Motor Credit Co., 8 S.W.3d 273, 275-76 (Tenn. Ct. App. 1999) ("Despite Rule 9.02's particularity requirements, we must determine the sufficiency of the claims in light of Tenn. R. Civ. P. 8.01's liberal pleadings standards.").

In paragraph 10 of the complaint Father puts Son on notice that he is asserting a claim based on fraud. More importantly, in paragraphs 8 and 9 Father states with particularity that his claim of fraud is based on Son's act of hiring an attorney to prepare a quitclaim deed that conveys title to Son (and Daughter), reserving only a life estate for Father, and that Son failed to explain to Father that "he would not be able to freely dispose or alienate the land conveyed in the aforementioned Quitclaim Deed." These "averments sounding in fraud" identify with specificity "the circumstances constituting" the alleged fraud because they designate "one thing singled out among many" that constitutes the fraud allegedly perpetrated by Son upon Father. *See Diggs*, 387 S.W.3d at 565. Therefore, we affirm the trial court's ruling that Father's complaint states a claim of fraud.

Moreover, Son waived the affirmative defense of failing to state a claim upon which relief can be granted because he failed to set forth the affirmative defense in his answer and he failed to file a Rule 12.02 motion to dismiss the fraud claim prior to filing his answer to the complaint.

Accordingly, we affirm the trial court's decision to deny Son's belated motion to dismiss the complaint on the grounds that Father failed to plead fraud with sufficient particularity.

III. MOTION TO CONFORM THE PLEADINGS TO THE PROOF

Son contends the trial court erred by granting Father's oral motion to conform the pleadings to the proof presented at trial. According to Son, it was highly-prejudicial to his case to allow Father to raise a claim of undue influence and the issue of
10 a confidential relationship on the day of trial. *10 We have determined the trial court did not actually grant Father's motion to conform the pleadings, at least insofar as it relates to a claim of undue influence. Instead, the court stated that conforming the pleadings to the evidence "would not come under the heading of a minor pleading technicality, but, certainly, the Court can consider the evidence here, the sworn testimony. . . ." Based on this statement, it appears that the trial court declined to consider claims of undue influence but determined that it could consider the proof that was presented about the relationship between Father and Son, which had been entered without objection. This decision was not error.

Nevertheless, if the court did grant the motion, we find no error with such decision. As a general rule, "[j]udgments awarded beyond the scope of the pleadings are void." *See Randolph v. Meduri*, 416, S.W.3d 378, 384 (Tenn. Ct. App. 2011). However, Rule 15.02 allows the trial of an unpled issue by express or implied consent of the adverse party followed by an amendment of the pleadings to encompass the issue. *Id.* (citing Tenn. R. Civ. P. 15.02). As our Supreme Court has explained the rule:

> Tennessee Rule of Civil Procedure 15.02 provides that pleadings may be amended to conform to the evidence "[w]hen issues not raised by the pleadings are tried by express or implied consent of the parties." Such amendment may be allowed by the court "even after judgment." *Id.*; *see also George v. Bldg. Materials Corp. of Am.*, 44 S.W.3d 481, 486 (Tenn. 2001) ("'Amended pleadings may be filed before trial, after trial, or even after appeal so long as the trial court has jurisdiction and so long as the trial court does not abuse its discretion in allowing the amendment.'" (quoting *Harris v. St. Mary's Med. Ctr., Inc.*, 726 S.W.2d 902, 904 (Tenn. 1987))). The rules relating to amendment of pleadings are liberal, vesting broad discretion in the trial court.

Biscan, 160 S.W.3d at 471.

Father does not contend there was express consent to try the issue of whether a confidential relationship existed; thus, the dispositive question is whether the parties impliedly consented to try this issue.

"Generally speaking, trial by implied consent will be found where the party opposed to the amendment knew or should reasonably have known of the evidence relating to the new issue, did not object to this evidence, and was not prejudiced thereby." *Hiller v. Hailey*, 915 S.W.2d 800, 804 (Tenn. Ct. App. 1995).

> Implied consent . . . is much more difficult to establish (than express consent) and seems to depend on whether the parties recognized that an issue not presented by the pleadings entered the case at trial. A party who knowingly acquiesces in the introduction of evidence relating to issues that
>
> 11 *11
>
> are beyond the pleadings is in no position to contest a motion to conform. Thus, consent generally is found when evidence is introduced without objection, or when the party opposing the motion to amend himself produced evidence bearing on the new issue.

Zack Cheek Builders, Inc. v. McLeod, 597 S.W.2d 888, 891 (Tenn. 1980). Determining whether an issue was tried by implied consent rests with the discretion of the trial judge whose determination will be reversed only upon a finding of abuse of discretion. *Goff v. Elmo Greer & Sons Const. Co., Inc.*, 297 S.W.3d 175, 197 (Tenn. 2009).

The record reveals that Father, Son, and Daughter each testified extensively at trial regarding the close personal relationship between Father and Son and it is significant that Son never objected to the admission of evidence concerning the "relationship" between Son and Father. As noted above, a party who acquiesces to the introduction of evidence relating to issues that are beyond the pleadings is in no position to contest a motion to conform. *McLeod*, 597 S.W.2d at 891. Moreover, consent is generally found when evidence is introduced without objection. *Id.* The record reveals that Son did not object to this evidence.

Therefore, we find no error with the trial court's discretionary decision to amend the pleadings to conform to the evidence if, indeed, that is what was done. *See Goff*, 297 S.W.3d at 197. We also find no error with the trial court's decision to consider evidence introduced at trial concerning the relationship between Son and Father to the extent it pertains to Father's claim that Son procured the quitclaim deed by fraud or fraudulent concealment.

IV. RESCISSION OF THE QUITCLAIM DEED

Son contends the trial court erred by rescinding the quitclaim deed based upon findings that Father was under "the domination and control of his son at the time the deed was signed;" and that "the deed . . . was procured through fraud or constructive fraud." More specifically, Son contends the evidence preponderates against the finding that Father was under his domination and control. Son also contends he was not in a confidential relationship with Father. Therefore, Son did not owe a duty to disclose all material facts concerning the quitclaim deed before Father signed the deed.

A. TENN. R. CIV. P. 52.01

Before assessing the merits of Son's argument, we find it necessary to discuss the sufficiency of the trial court's findings of fact and conclusions of law.

In all actions tried upon the facts without a jury, the trial court is required to "find the facts specially and shall state separately its conclusions
12 of law and direct the entry of *12 the appropriate judgment."[3] Tenn. R. Civ. P. 52.01. The underlying

rationale for the Rule 52.01 mandate is that it facilitates appellate review by "affording a reviewing court a clear understanding of the basis of a trial court's decision," and in the absence of findings of fact and conclusions of law, "this court is left to wonder on what basis the court reached its ultimate decision." *In re Estate of Oakley*, No. M2014-00341-COA-R3-CV, 2015 WL 572747, at *10 (Tenn. Ct. App. Feb. 10, 2015) (citing *Lovlace v. Copley*, 418 S.W.3d 1, 35 (Tenn. 2013)). Further, compliance with the mandate of Rule 52.01 enhances the authority of the trial court's decision because it affords the reviewing court a clear understanding of the basis of the trial court's reasoning. *Gooding v. Gooding*, 477 S.W.3d 774, 782 (Tenn. Ct. App. 2015); *In re Zaylen R.*, No. M2003-00367-COA-R3-JV, 2005 WL 2384703, at *2 (Tenn. Ct. App. Sept. 27, 2005) ("Findings of fact facilitate appellate review, *Kendrick v. Shoemake*, 90 S.W.3d 566, 571 (Tenn. 2002), and enhance the authority of the court's decision by providing an explanation of the trial court's reasoning.").

[3] "If an opinion or memorandum of decision is filed, it will be sufficient if the findings of fact and conclusions of law appear therein. Findings of fact and conclusions of law are unnecessary on decisions of motions under Rules 12 or 56 or any other motion except as provided in Rules 41.02 and 65.04(6)." Tenn. R. Civ. P. 52.01.

Our Supreme Court explained the reasoning for the Rule 52.01 mandate in *Lovlace v. Copley*:

> Requiring trial courts to make findings of fact and conclusions of law is generally viewed by courts as serving three purposes. First, findings and conclusions facilitate appellate review by affording a reviewing court a clear understanding of the basis of a trial court's decision. Second, findings and conclusions also serve "to make definite precisely what is being decided by the case in order to apply the doctrines of estoppel and res judicata in future cases and promote confidence in the trial judge's decision-making." A third function served by the requirement is "to evoke care on the part of the trial judge in ascertaining and applying the facts." Indeed, by clearly expressing the reasons for its decision, the trial court may well decrease the likelihood of an appeal.

Lovlace, 418 S.W.3d at 34-35 (internal citations and footnotes omitted).

While there is no bright-line test by which to assess the sufficiency of the trial court's factual findings, the general rule is that "the findings of fact must include as much of the subsidiary facts as is necessary to disclose to the reviewing court the steps by which the trial court reached its ultimate conclusion on each factual issue." *Gooding*, 77 S.W.3d at 782 (quoting *Lovlace*, 418 S.W.3d at 35). Thus, "[s]imply stating the trial court's decision, without more, does not fulfill [the
13 Rule 52.01] mandate." *Id.* Conversely, *13 when the trial court does not make specific findings of fact, no presumption of correctness arises because "there was nothing found as a fact which we may presume correct." *Id.* (quoting *Brooks v. Brooks*, 992 S.W.2d 403, 405 (Tenn. 1999)).

When we have the benefit of comprehensive and detailed findings of fact by the trial court, which fully comply with the Rule 52.01 mandate, we review a trial court's factual findings de novo, accompanied by a presumption of the correctness of the finding of fact, unless the preponderance of the evidence is otherwise. Tenn. R. App. P. 13(d); *see Boarman v. Jaynes*, 109 S.W.3d 286, 289-90 (Tenn. 2003). For the evidence to preponderate against a trial court's finding of fact, it must support another finding of fact with greater convincing effect. *Walker v. Sidney Gilreath & Assocs.*, 40 S.W.3d 66, 71 (Tenn. Ct. App. 2000); *Realty Shop, Inc. v. R.R. Westminster Holding, Inc.*, 7 S.W.3d 581, 596 (Tenn. Ct. App. 1999). However, when the trial court fails to sufficiently explain the factual basis for its decisions, we may conduct a de novo review of the record to determine where the preponderance of the evidence lies. *Gooding*, 477 S.W.3d at 782 (citing *Lovlace*, 418 S.W.3d at 36; *Ganzevoort v. Russell*, 949 S.W.2d 293, 296 (Tenn. 1997); *Nashville Ford Tractor, Inc. v. Great Am. Ins. Co.*, 194 S.W.3d 415, 424 (Tenn. Ct. App. 2005)).

In this case, it appears the trial court's basis for concluding the deed was procured by Son's fraud or constructive fraud was that "[Father] was under the domination and control of his son at the time the deed was signed," which gave rise to a duty to disclose to Father material facts pertinent to the quitclaim deed. The relevant portion of the trial court's factual findings and legal conclusions reads as follows:

[Father] was justified and reasonable in making the decision to sign the deed, based on the assurances given him by his son that the document would accomplish his goal of protecting his land from creditors and preserving his estate for his children. [Son] had directed his attorney to create the quitclaim and benefitted financially as a result of its execution. He was fully aware that this deed would do much more than what his father wished. He knew that it would divest [Father] of everything but a life estate in the property on which he had lived and worked since 1967. [Son's] silence on this regard is the equivalent of a conscious omission, which the Court finds relevant in its judgment.

The Court finds that the relationship between [the parties] went beyond that of father/son and/or being based on trust and love. It was "[Son's] way or the highway," and [Father] was afraid his son would "yell at him" for wanting his land back. **When it came to financial matters, [Father] was under the domination and control of his son at the time the deed was signed.** [Son's] control over his father's finances was such that [Father] had difficulty withdrawing funds from his own Ameritrade

14 *14

> **account. The relationship between [Father] and [Son] at the time was such that [Son] had both a legal and an equitable duty to explain fully and adequately to his father the legal significance of the deed, just as [the attorney] had directed.**
>
> **The Court finds that [Father] was injured by the actions of his son. The injury was a result of his justifiable and reasonable reliance on [Son] to find a way to keep his estate intact.** The document he signed did not accomplish the goal with which he had entrusted his son and financial advisor. **The Court . . . finds . . . that the deed in this case was procured through fraud or constructive fraud, either of which justifies the Court's decision to return to [Father] the . . . interest in the property currently held by his son.**

(Emphasis added).

Having reviewed the trial court's findings and conclusions of law, we respectfully submit that they do not satisfy the Rule 52.01 mandate because they are more akin to simply stating the trial court's decision than findings that "include as much of the subsidiary facts as is necessary to disclose to the reviewing court the steps by which the trial court reached its ultimate conclusion." *See Gooding*, 477 S.W.3d at 782; *see also Lovlace*, 418 S.W.3d at 35.

When the trial court does not sufficiently explain the factual basis for its decisions, we may conduct a de novo review of the record to determine where the preponderance of the evidence lies. *Gooding*, 477 S.W.3d at 783. Therefore, we shall review the record to determine whether the factual basis of the decision is supported by sufficient evidence using the preponderance of the evidence standard in Tenn. R. App. P. 13(d). *Id.*; *Boyd v. Comdata Network, Inc.*, 88 S.W.3d 203, 212 (Tenn. Ct. App. 2002). As for the trial court's legal conclusions, we will review them de novo without a presumption of correctness. *Id.*

B. FRAUD AND CONSTRUCTIVE FRAUD

To establish a claim for fraud, a plaintiff must prove that: (1) the defendant made a representation of an existing or past fact; (2) the representation was false when made; (3) the representation was in regard to a material fact; (4) the false representation was made either knowingly or without belief in its truth or recklessly; (5) the plaintiff reasonably relied on the misrepresented material fact; and (6) plaintiff suffered damage as a result of the misrepresentation. *Walker v. Sunrise Pontiac-GMC Truck, Inc.*, 249 S.W.3d 301, 311 (Tenn. 15 2008). *15

Although it was not clear at trial whether Father was asserting a claim based on fraud or constructive fraud, Father is not alleging on appeal that Son made an affirmative misrepresentation regarding the nature of the transaction. Indeed, Father's complaint states that "neither his son nor anyone else explained to him that he would not be able to freely dispose or alienate the land conveyed in the aforementioned Quitclaim Deed." This sentence is an allegation of nondisclosure or concealment rather than an allegation of an affirmative misrepresentation. Moreover, there is no evidence in this record to support a finding that Son knowingly made a false representation of an existing fact to Father.

Fraud can be established by proof of nondisclosure or concealment of a known, material fact only when one party has a duty to disclose that fact. *See Justice v. Anderson County*, 955 S.W.2d 613, 616 (Tenn. Ct. App. 1997). Similarly, constructive fraud arises from the breach of a legal or equitable duty coupled with conduct that can reasonably be expected to influence the conduct of others. *See Kincaid v. SouthTrust Bank*, 221 S.W.3d 32, 39 (Tenn. Ct.

App. 2006). Therefore, based on the complaint and the evidence in the record, Father must demonstrate that Son owed him a duty whether Father's claim is for fraud or constructive fraud. *See id.*; *Justice*, 955 S.W.2d at 616.

The general rule is that one party to a transaction has no duty to disclose material facts to the other. *Homestead Grp., LLC v. Bank of Tenn.*, 307 S.W.3d 746, 751-52 (Tenn. Ct. App. 2009) (citing *Wright v. C & S Family Credit, Inc.*, No. 01A01-9709-CH-00470, 1998 WL 195954, at *2 (Tenn. Ct. App. Apr. 24, 1998). However, such a duty may arise when a confidential relationship exists between the parties. *See Benton v. Snyder*, 825 S.W.2d 409, 414 (Tenn. 1992). A confidential relationship "is not merely a relationship of mutual trust and confidence . . . ." *Kelley v. Johns*, 96 S.W.3d 189, 197 (Tenn. Ct. App. 2002). Rather, a confidential relationship is "one where confidence is placed by one in the other and the recipient of that confidence is the dominant personality, with ability, because of that confidence, to influence and exercise dominion and control over the weaker or dominated party." *Id.* (quoting *Iacometti v. Frassinelli*, 494 S.W.2d 469, 499 (Tenn. Ct. App. 1973).

"[T]he normal relationship between a mentally competent parent and an adult child is not per se a confidential relationship." *Kelly v. Allen*, 558 S.W.2d 845, 848 (Tenn. 1977); *see In re Estate of Schisler*, 316 S.W.3d 599, 609 (Tenn. Ct. App. 2009) (noting that typical "family relationships" are not confidential *per se*). However, a confidential relationship may exist between family members when there is proof of "dominion and control."[4] *See Matlock v. Simpson*, 902 S.W.2d 384, 385-86 (Tenn. 1995) (citing *Kelly*, 558 S.W.2d at 848; *Mitchell v. Smith*, 779 S.W.2d 384,
16 389 (Tenn. Ct. App. 1989)). *16

[4] The legal concept of "dominion and control" is generally associated with "the doctrine of undue influence" in the context of a claim that a deed or other transaction that benefits the dominant party was obtained by undue influence that was exerted by a dominant party who had "a confidential relationship" with the grantor of the deed or transaction. *See Fell v. Rambo*, 36 S.W.3d 837, 847-48 (Tenn. Ct. App. 2000); *see also Childress v. Currie*, 74 S.W.3d 324, 329 (Tenn. 2002). Although undue influence and fraud or constructive fraud are grounds for rescinding a deed or contract, and in many cases both may be present, the doctrine of undue influence is distinguishable from that of fraud or constructive fraud. *Rawlings v. John Hancock Mut. Life Ins. Co.*, 78 S.W.3d 291, 301 (Tenn. Ct. App. 2001); Joseph Warren, *Fraud Undue Influence, and Mistake in Wills*, 41 Harv. L. Rev. 309, 326-27 (1928). This is because the basic ingredient of a fraud claim is deception, which is based on a trick or other use of false information that induces a person to dispose of his or her property in a way he or she would not otherwise have done but for the fraud, while a claim of undue influence is based on the exertion of pressure to break down a person's will power so that the person is unable to keep from doing what he or she would not otherwise have done. *Rawlings*, 78 S.W.3d at 301. In this case, however, it is important to recognize that the trial court did not conclude that the deed was procured by undue influence. Instead, the trial court granted relief based on fraud or constructive fraud.

Whether or not a confidential relationship between family members exists is a question of fact. *Matlock*, 902 S.W.2d at 385 (citing *Roberts v. Chase*, 166 S.W.2d 641 (Tenn. Ct. App. 1942); *Turner v. Leathers*, 232 S.W.2d 269 (Tenn. 1950); *Halle v. Summerfield*, 287 S.W.2d 57 (Tenn. 1956)). This court has found that confidential relationships exist when one party is in poor health and depends upon the other party for their physical and financial needs. *See Kelley*, 96 S.W.3d at 197-98; *In re Estate of Schisler*, 316 S.W.3d at 609. In contrast, no confidential relationship existed when the allegedly-dominated party was mentally healthy, drove himself around, transacted his own business, and "had his own assets at all times." *See Banc of America Inv. Servs., Inc. v. Davis*, No. E2008-00559-COA-R3-CV, 2009 WL 277050, at *4 (Tenn. Ct. App. Feb. 5, 2009).

C. SON'S DUTY TO FATHER

The trial court's findings regarding dominance and control, which is the basis for concluding that Son owed Father a duty to disclose facts material to the quitclaim deed, were based in pertinent part on the following findings and conclusions. The trial court found that Father trusted Son "one hundred percent," and that Father believed it unnecessary to read legal documents presented to him by Son. Further, the trial court determined that the relationship between Father and Son:

> went beyond that of father/son and/or being based on trust and love. It was '[Son's] way or the highway,' and [Father] was afraid his son would 'yell at him' for wanting his land back. When it came to financial matters, [Father] was under the domination and control of his son at the time the deed was signed.

Based on these findings, the trial court reached the legal conclusion that Son owed a duty to Father. The court specifically held that "[t]he relationship between [Father] and [Son] at the time was such that [Son] had both a legal and an equitable duty
17 to explain *17 fully and adequately to his father the legal significance of the deed, just as [the attorney] had directed."

The following evidence is indicative of the close relationship between Son and Father. Father often asked Son for financial advice. After Father retired, Son assisted him in establishing a 401(k) retirement account. Father "trusted [Son] one hundred percent," and he found it unnecessary to read legal documents presented to him by Son. Additionally, as Father explained, when it came to finances "it was [Son's] way or the highway" and that Son would get upset if Father questioned him about anything. For example, Father recounted an instance in which Son refused to withdraw $11,000 from Father's retirement account so that Father could build an addition onto his home.[5]

> [5] Father testified that, because Son assisted in setting up Father's account, both of them had access to the account and both of them were able to withdraw money at any time.

However, there is evidence to support a finding that Father was not under Son's dominion or control at any time. After Son refused to withdraw $11,000 from Father's 401(k) retirement account, Father withdrew the money from the account himself and made the addition to his home against the ardent advice of Son. Thereafter, Father removed the remaining funds from the 401(k) retirement account and deposited the funds in a bank in Lawrenceburg, Tennessee.

Although Father occasionally relied on Son for financial advice and could be persuaded by Son's opinions, Son did not have control over Father or Father's finances. Furthermore, Father frequently bought and sold used cars on his own for which he negotiated the sales prices, exchanged titles, and completed all necessary paperwork to finalize such transactions. Also, while Son helped with the finances for Father's nursery business "at the very beginning," Father testified that he subsequently took over these responsibilities and was doing all of the financial work for the business himself.

In addition, at all times material to this case Father was in good physical and mental health, Father lived separately from Son, and Father was not dependent on the Son, or anyone, for his daily needs.

These facts are in sharp contrast to those in *Kelley v. Johns*, where the court found a confidential relationship because the father was in poor physical and mental health and was dependent on his son for his daily needs. *Kelley v. Johns*, 96 S.W.3d at 197. The facts here are also in sharp

contrast to those in *Estate of Schisler*, where the court found a confidential relationship existed because the mother, who was partially incapacitated, depended on her daughter to care for her, feed her, house her, and transport her. *In re Estate of Schisler*, 316 S.W.3d at 609. Unlike *Kelley* and *Schisler*, the facts here are more akin to those in *Banc of America Inv. Services, Inc. v.*
18 *Davis*, where we found no *18 confidential relationship because the evidence revealed that the decedent was mentally healthy, transacted his own business, and was capable of driving himself at all times material to the issue. *Davis*, 2009 WL 277050, at *4.

Having conducted a thorough review of the record, we have determined that despite Son's involvement in Father's financial affairs and Son's "my way or the highway" attitude, Father was not dependent on anyone. To the contrary, Father exercised independent decision-making, and he had ultimate control over his finances, his business dealings, and his real property. Therefore, the evidence preponderates against the finding that Son exercised dominion and control over Father to the extent necessary to establish a confidential relationship in the legal context. *See Kelley*, 96 S.W.3d at 197; *In re Estate of Schisler*, 316 S.W.3d at 609; *Davis*, 2009 WL 277050, at *4.

The general rule is that one party to a transaction has no duty to disclose material facts to the other, *see Homestead Grp., LLC*, 307 S.W.3d at 751-52, and the normal relationship between a mentally competent parent and an adult child is not per se a confidential relationship which would create such a duty. *See In re Estate of Schisler*, 316 S.W.3d at 609. We have determined that Son did not exercise dominion and control over Father to the extent necessary to establish a confidential relationship, and no other exception to the general rule has been established. Therefore, Son did not owe Father a duty to disclose facts material to the conveyance of Father's real property to Son pursuant to the quitclaim deed.[6] Because Son did not owe Father a duty, Son did not breach a duty to Father by failing to disclose to Father the information given to Son by the attorney who prepared the deed or other facts material to the transaction. Consequently, Father has not established either fraud or constructive fraud. *See Kincaid*, 221 S.W.3d at 39; *Justice*, 955 S.W.2d at 616.

6 It is not for this court to determine whether Son owed Father a moral duty to make such disclosures, and we shall refrain from doing so. --------

Moreover, had Son owed a duty to Father to disclose facts material to the conveyance of Father's property, we find Father's reliance on Son's silence was unreasonable. This is because ordinary diligence by Father, that being merely reading the deed, would have revealed the undisclosed facts. *See PNC Multifamily Capital Inst. Fund XXVI Ltd. P'ship.*, 387 S.W.3d at 550 ("Although there may be a duty to disclose material facts, a party does not have a duty to disclose a material fact where ordinary diligence would have revealed the undisclosed fact."). Father testified that he did not read the quitclaim deed presented to him by Son prior to its execution. Had he done so, it would have been evident that the nature of the transaction was to convey title in the real property to Son and Daughter with Father merely retaining a life estate. Therefore, Father's reliance was not justifiable in this circumstance. *Id.*; *see also Macon County Livestock Mkt., Inc. v. Kentucky State Bank, Inc.*, 724 S.W.2d 343, 351 (Tenn. Ct.
19 App. *19 1986) ("A party cannot be permitted to claim that he has been taken advantage of if he had the means of acquiring the needed information[.]").

IN CONCLUSION

The judgment of the trial court is reversed, and this matter is remanded for further proceedings consistent with this opinion. Costs of appeal are assessed against Father.

/s/__________

FRANK G. CLEMENT, JR., JUDGE

casetext

ELECTRONICALLY FILED
2022 Mar 23 3:25 PM - 22CV-510
John A. W. Bratcher, Clerk & Master

IN THE CHANCERY COURT OF RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

CASE N0. 322749

NISAR MOHAMMADI, PLAINTIFF

VS.

KONICA-RENEE MOORE, DEFENDANT

DECLARATION IN SUPPORT OF NOTICE OF MOTION FOR TEMPORARY RESTRAINING ORDER EX PARTE PURSUANT TO TENNESSEE CODE 36-6-605

23 March 2022

DECLARATION IN SUPPORT OF NOTICE OF MOTION FOR TEMPORARY RESTRAINING ORDER EX PARTE

Comes the Affiant Konica-Renee of the Family of Moore

Under penalties of perjury who, being duly sworn, deposes and says, to wit as follows:

Konica-Renee of the Family of Moore is pleading a RESULTING AND CONSTRUCTIVE TRUST IN EQUITY DUE TO THE CONSTRUCTIVE AND ACTUAL FRAUD COMMITTED BY THE STATE OF TENNESSEE, Rutherford County Court of General Sessions and (Judge)TOBY GILLIS, The PLAINTIFF NISSAR MOHAMMADI and Primary Mortgage Residential Inc., WHICH IS PRIMA FACIE

ON THE ADMINISTRATIVE AND RUTHERFORD COUNTY COURT OF GENERAL SESSIONS RECORDS, ADMINISTRATIVE AND JUDICIAL and merging legal and equitable title and giving Konica-Renee Moore an Equitable Lien for Enforceability.

Further Affiant Sayeth Not.

Konica-Renee: Family of Moore

Konica-Renee: Family of Moore

ACKNOWLEDGMENT

State of Tennessee
County of Rutherford

On this March day of 23, 2022, before me personally appeared KonicaRenee:Family of Moore to me known to be the person described in and who executed the foregoing instrument, and acknowledged that he/she executed the same as his/her free act and deed, for the purposes therein set forth.

Ginger Ledbetter

GINGER L. LEDBETTER
STATE OF TENNESSEE NOTARY PUBLIC
RUTHERFORD COUNTY

(County Clerk) (Notary Public)

My Commission Expires 08-17-2025

CERTIFICATE OF MAILING

I, Konica-Renee: Moore do hereby solemnly declare, that on the 23rd day of March 2022, I did cause to be delivered by Special Deposit Certified U.S. Mail a true and correct copy of the foregoing instrument, NOTICE OF MOTION FOR TEMPORARY RESTRAINING ORDER EX PARTE, DECLARATION IN SUPPORT OF NOTICE OF MOTION FOR TEMPORARY RESTRAINING ORDER EX PARTE, AND NOTICE OF LIS PENDENS AND NOTICE OF ACTION PENDING BY SPECIAL DEPOSIT including true and correct copies of all/any documents referenced therein as "attached hereto," to the parties and locations listed below:

Dated this 23rd day of March, 2022

Konica-Renee: Moore

Konica-Renee: Moore

cc:

Law Office of Kious, Rogers, Barger, Holder, King PLLC
Attn: T. Drake Uselton, Associate
503 N Maple Street
Murfreesboro, Tennessee 37130

Rubin Lublin, LLC
Attn: Glen Rubin
3145 Avalon Ridge Parkway #100
Norcross, Georgia 30071

Michael S. Fitzhugh
940 New Salem Highway
Murfreesboro. TN 37129

Michael Moody
940 New Salem Highway
Murfreesboro, TN 37129

IN THE GENERAL SESSIONS CIVIL COURT FOR RUTHERFORD COUNTY, TENNESSEE
AT MURFREESBORO

Court Date 3/25/22 @ 9:00 AM

NISAR MOHAMMADI

Plaintiff;

vs.

Moore, Konica-Renee, ex rel.
KONICA-RENEE MOORE, ET AL.,
Defendant;

DOCKET NO. 322749

NOTICE OF MOTION OR APPLICATION TO SET ASIDE DEFAULT JUDGEMENT BY SPECIAL DEPOSIT

10 MARCH 2022

NUNC PRO TUNC 07 MARCH 2022

FILED
MAR 10 2022
10 O'CLOCK A M
MELISSA HARRELL
DEPUTY CLERK

Moore, Konica-Renee sui juris in propria persona third party intervener and authorized representative is before this court by Special Appearance and Special Deposit without waiving any Equitable or Legal Rights, Remedies, or Defenses Statutory or Procedural as the Donor-Grantor-Beneficiary of the Deed of Trust, doing business as KONICA-RENEE MOORE, ET AL. and alleges that there is no Plain, Speedy, or Adequate Remedy at law and that these proceedings are counter to equity and that this proceeding could irreparably damage rights to title, land, property, and/or interest on a Private Trust now established by Special Deposit before the court. Because Courts of Special Equity have exclusive jurisdiction over Private Trusts and Special Deposits, We hereby and herein invoke a Court of Special Equity by Special Deposit from which relief may be granted by NOTICE OF MOTION OR APPLICATION TO SET ASIDE DEFAULT JUDGEMENT. This Motion or Application is being made on the following grounds and is supported by attached affidavit in support thereof:

1. Affiant has no Plain, Speedy, or Adequate Remedy at Law and orders these proceedings in a Court of Special Equity;

2. Affiant is the Authorized Representative of the Deed of Trust Doing Business As KONICA-RENEE MOORE, ET.AL;

3. Affiant is the Power of Attorney-In-Fact for the Deed of Trust Doing Business As KONICA-RENEE MOORE;

4. Affiant accepts the Oath of Office of Gilley, Toby Doing Business As JUDGE TOBY GILLEY;

5. Affiant believes there is a defect in the service of process and a defect in the process, which prejudices the Affiant's Right to Due Process of Law and Right to Individual Dignity (See Tennessee Constitution, Article 1 § 8 and § 35; Tennessee Constitution Article 11 § 8);

6. Neither Affiant or Plaintiff will be prejudiced by Setting Aside Default Judgement if granted by this Court of Special Equity;

7. The interest of justice are best served by Setting Aside Default Judgement;

8. This case invokes a threshold issue as to Plaintiff's standing as a Real Party In Interest under Rule 17.01 of the Tennessee Civil Code and Article 3 § 2 of the National Constitution that needs to be addressed by this Court of Special Equity Sua Sponte.

9. That these proceedings are counter to equity and that this proceeding could irreparably damage by trespass, Affiant's Unalienable right to Equitable and Legal title to land, property, and interest on a Private Trust now established by Special Deposit and because Courts of Special Equity have exclusive jurisdiction over Private Trusts by Special Deposit;

10. That this Motion or Application for to Set Aside Default Judgement is not being made for the purposes of delay or hinderance but to further the interests of justice;

Respectfully Submitted by Special Deposit:

Dated this 10th day of March, 2022

By: Moore, Konica-Renee

Moore, Konica-Renee, Authorized Representative

IN THE GENERAL SESSIONS CIVIL COURT FOR RUTHERFORD COUNTY
AT MURFREESBORO

NISAR MOHAMMADI

Plaintiff;

vs.

Moore, Konica-Renee, ex rel.
KONICA-RENEE MOORE, ET AL.,
Defendant;

DOCKET NO. 322749

DECLARATION IN SUPPORT OF NOTICE OF MOTION OR APPLICATION TO SET ASIDE DEFAULT JUDGEMENT BY SPECIAL DEPOSIT

10 MARCH 2022

NUNC PRO TUNC 07 MARCH 2022

We Moore, Konica-Renee make this Declaration in support of Her Motion or Application to Set Aside Default Judgement and invoke the following Maxims of Equity in Support of his Motion or Application to Set Aside Default Judgement:

1. Affiant has no Plain, Speedy, or Adequate Remedy at Law and orders these proceedings in a Court of Special Equity;
2. Affiant is the Authorized Representative of the Deed of Trust Doing Business As KONICA-RENEE MOORE (See Attachment A);
3. Affiant is the Power of Attorney-In-Fact for the Deed of Trust Doing Business As KONICA-RENEE MOORE (See Attachment A);
4. Affiant accepts the Oath of Office of Gilley, Toby Doing Business As JUDGE TOBY GILLEY (See Attachment B);
5. Affiant believes there is a defect in the service of process, which prejudices the Affiant's Right to Due Process of Law and Right to Individual Dignity (See Tennessee Constitution, Article 1 § 8 and § 35; Tennessee Constitution Article 11 § 8);

6. Neither Affiant or Plaintiff will be prejudiced by Setting Aside Default Judgement if granted by this Court of Special Equity;
7. The interest of justice are best served by Setting Aside Default Judgement;
8. This case invokes a threshold issue as to Plaintiff's standing as a Real Party In Interest under Rule 17.01 of the Tennessee Civil Code and Article 3 § 2 of the National Constitution that needs to be addressed by this Court of Special Equity Sua Sponte.
9. That these proceedings are counter to equity and that this proceeding could irreparably damage by trespass, Affiant's Unalienable right to Equitable and Legal title to land, property, and interest on a Private Trust now established by Special Deposit and because Courts of Special Equity have exclusive jurisdiction over Private Trusts by Special Deposit;
10. That this Motion or Application for to Set Aside Default Judgement is not being made for the purposes of delay or hinderance but to further the interests of justice;
11. That Equity looks upon that as done which ought to have been done;
12. That Equity suffers not right to be without a remedy;
13. That Equity regards substance rather than form;
14. That Where the equities are equal, the first in time will prevail;
15. That Where equities are equal, the law will prevail;
16. That He who seeks equity must do equity;
17. That He who seeks equity must have clean hands;
18. That Equity aids the vigilant, not those who sleep on their rights;
19. That Equity will not concern itself with abstract wrongs;
20. That Equity abhors a forfeiture;
21. That Equity does not require an idle gesture;

22. That Equity will not permit a party to profit by his own wrong;

23. That Equity delights to do justice, and not by halves;

24. That Equity will take jurisdiction to avoid multiplicity in suits;

25. That Equity acts with In Personam.

We certify and declare under penalty of perjury and under the Laws of the united states of America [28 USC § 1746 (1)] that the above facts are true and correct to the best of my knowledge and belief.

Dated this 9th day of March, 2022

By: Moore, Konica-Renee

Affiant Moore, Konica-Moore

JURAT

Tennessee STATE REPUBLIC

Rutherford COUNTY

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared Moore, Konica-Renee, who is personally known to me or who has produced TN Driver License as identification and who executed the foregoing instrument and he/she acknowledged before me that he/she executed the same WITNESS my hand and official seal in the County and State aforesaid this 9 day of March 2022.

Aaron Biddix

Notary Public

Printed Name: Aaron Biddix

My commission expires: 3-15-2025

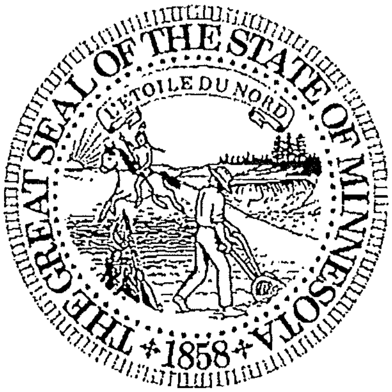
AARON BIDDIX
STATE OF TENNESSEE NOTARY PUBLIC
RUTHERFORD COUNTY

"Attachment" A

Office of the Minnesota Secretary of State
Certificate of Existence and Registration

I, Steve Simon, Secretary of State of Minnesota, do certify that: The entity listed below was filed under the chapter of Minnesota Statutes listed below with the Office of the Secretary of State on the date listed below and that this entity or filing is registered at the time this certificate has been issued.

Name:	KONICA RENEE MOORE
Date Filed:	04/06/2018
File Number:	1011259500029
Minnesota Statutes, Chapter:	333
Home Jurisdiction:	Minnesota
This certificate has been issued on:	04/06/2018



Steve Simon

Steve Simon
Secretary of State
State of Minnesota

Lisa Crowell
County Clerk

Lisa Crowell
Rutherford County Clerk

319 North Maple Street, Suite 121
Murfreesboro, Tennessee 37130
Office: (615) 898-7800
Fax: (615) 898-7830

www.rutherfordcountytn.gov

PUBLIC RECORDS REQUEST FORM

The Tennessee Public Records Act (TPRA) grants Tennessee citizens the right to access open public records that exist at the time of the request. The TPRA does not require records custodians to compile information or create or recreate records that do not exist.

To: Rutherford County Clerk, 319 N. Maple St. Rm 121, Murfreesboro TN 37130

From: Include Name, Contact Information and Address
Moore, Konica-Renee
925 Maricopa Dr. Mboro TN 37128

Is the requestor a Tennessee citizen? ☐ Yes ☐ No

Request: ☐ Inspection (The TPRA does not permit fees or require a written request for inspection only[i].)

i Note, Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of private records of a utility.

☐ Copy/Duplicate

If costs for copies are assessed, the requestor has a right to receive an estimate. Do you wish to waive your right to an estimate and agree to pay copying and duplication costs in an amount not to exceed $__________? If so, initial here: __________.

Delivery preference: ☐ On-Site Pick-Up ☑ USPS First-Class Mail ☐ Electronic
☐ Other: __________

Records Requested:
Provide a detailed description of the record(s) requested, including: (1) type of record; (2) timeframe or dates for the records sought; and (3) subject matter or key words related to the records. Under the TPRA, record requests must be sufficiently detailed to enable a governmental entity to identify the specific records sought. As such, your record request must provide enough detail to enable the records custodian responding to the request to identify the specific records you are seeking.

Certified copy for Oath of Office for: Judge Toby Gilley

Requesting 2 certified copies

By: Moore, Konica-Renee
Signature of Requestor and Date Submitted

Signature of Public Records Request Coordinator and Date Recived

i Note, Tenn. Code Ann. § 10-7-504(a)(20)(C) permits charging for redaction of private records of a utility.

501·517·3392

Certificate of Mailing

We Moore, Konica-Renee do hereby solemnly declare, that on the 10th day of March, 2022, We did cause to be delivered by Special Deposit by first class U.S. Mail a true and correct copy of the foregoing instrument, Motion or Application for Continuation including true and correct copies of all/any documents referenced therein as "attached hereto," to the parties and locations listed below:

Dated this 10th day of March, 2022

Moore, Konica-Renee

Moore, Konica-Renee

CC:

Law Office of Kious, Rogers, Barger, Holder, King PLLC
Attn: T. Drake Uselton, Associate
503 N Maple Street
Murfreesboro, Tennessee 37130